

In the Senate of the United States,

November 17 (legislative day, November 16), 1995.

Resolved, That the Senate recede from its amendment to the bill from the House of Representatives (H.R. 2491) entitled “An Act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996”, and concur to the above entitled bill with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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

2 *This Act may be cited as the “Balanced Budget Act*
3 *of 1995”.*

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

5 *This Act is organized into titles as follows:*

Title I—Agriculture and Related Provisions

Title II—Banking, Housing, and Related Provisions

Title III—Communication and Spectrum Allocation Provisions

Title IV—Education and Related Provisions

Title V—Energy and Natural Resources Provisions

Title VI—Federal Retirement and Related Provisions

Title VII—Medicaid

Title VIII—Medicare

Title IX—Transportation and Related Provisions

Title X—Veterans and Related Provisions

Title XI—Revenues

Title XII—Teaching hospitals and graduate medical education; asset sales; welfare; and other provisions

1 **TITLE I—AGRICULTURE AND**
 2 **RELATED PROVISIONS**

3 **SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This title may be cited as the “Ag-*
 5 *ricultural Reconciliation Act of 1995”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 7 *title is as follows:*

Sec. 1001. Short title; table of contents.

Subtitle A—Agricultural Market Transition Program

Sec. 1101. Short title.

Sec. 1102. Definitions.

Sec. 1103. Production flexibility contracts.

Sec. 1104. Nonrecourse marketing assistance loans and loan deficiency payments.

Sec. 1105. Payment limitations.

Sec. 1106. Peanut program.

Sec. 1107. Sugar program.

Sec. 1108. Administration.

Sec. 1109. Elimination of permanent price support authority.

Sec. 1110. Effect of amendments.

Subtitle B—Conservation

Sec. 1201. Conservation.

Subtitle C—Agricultural Promotion and Export Programs

Sec. 1301. Market promotion program.

Sec. 1302. Export enhancement program.

Subtitle D—Miscellaneous

Sec. 1401. Crop insurance.

Sec. 1402. Collection and use of agricultural quarantine and inspection fees.

Sec. 1403. Commodity Credit Corporation interest rate.

8 **Subtitle A—Agricultural Market**
 9 **Transition Program**

10 **SEC. 1101. SHORT TITLE.**

11 *This subtitle may be cited as the “Agricultural Market*
 12 *Transition Act”.*

1 **SEC. 1102. DEFINITIONS.**

2 *In this subtitle:*

3 (1) *CONSIDERED PLANTED.*—*The term “considered planted” means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) (as in effect prior to the amendment made by section 1109(b)(2)).*

8 (2) *CONTRACT.*—*The term “contract” means a production flexibility contract entered into under section 1103.*

11 (3) *CONTRACT ACREAGE.*—*The term “contract acreage” means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)). If a crop acreage base was not enrolled in an annual program for the 1995 crop in order to increase crop acreage base, the contract acreage for the 1996 crop shall reflect the increased base acreage that would have been established under title V of the Act (as so in effect).*

21 (4) *CONTRACT COMMODITY.*—*The term ‘contract commodity’ means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.*

24 (5) *CONTRACT PAYMENT.*—*The term “contract payment” means a payment made under section 1103 pursuant to a contract.*

1 (6) *FARM PROGRAM PAYMENT YIELD.*—*The term*
2 *“farm program payment yield” means the farm pro-*
3 *gram payment yield established for the 1995 crop of*
4 *a contract commodity under title V of the Agricul-*
5 *tural Act of 1949 (as in effect prior to the amendment*
6 *made by section 1109(b)(2)).*

7 (7) *LOAN COMMODITY.*—*The term ‘loan commod-*
8 *ity’ means each contract commodity, extra long staple*
9 *cotton, and oilseeds.*

10 (8) *OILSEED.*—*The term “oilseed” means a crop*
11 *of soybeans, sunflower seed, rapeseed, canola, saf-*
12 *flower, flaxseed, mustard seed, or, if designated by the*
13 *Secretary, other oilseeds.*

14 (9) *PROGRAM.*—*The term “program” means the*
15 *agricultural market transition program established*
16 *under this subtitle.*

17 (10) *SECRETARY.*—*The term “Secretary” means*
18 *the Secretary of Agriculture.*

19 **SEC. 1103. PRODUCTION FLEXIBILITY CONTRACTS.**

20 (a) *CONTRACTS AUTHORIZED.*—

21 (1) *OFFER AND TERMS.*—*Beginning as soon as*
22 *practicable after the date of the enactment of this sub-*
23 *title, the Secretary shall offer to enter into a contract*
24 *with an eligible owner or operator described in para-*
25 *graph (2) on a farm containing eligible farmland.*

1 *Under the terms of a contract, the owner or operator*
2 *shall agree, in exchange for annual contract pay-*
3 *ments, to comply with—*

4 *(A) the conservation plan for the farm pre-*
5 *pared in accordance with section 1212 of the*
6 *Food Security Act of 1985 (16 U.S.C. 3812);*

7 *(B) wetland protection requirements appli-*
8 *cable to the farm under subtitle C of title XII of*
9 *the Act (16 U.S.C. 3821 et seq.); and*

10 *(C) the planting flexibility requirements of*
11 *subsection (j).*

12 *(2) ELIGIBLE OWNERS AND OPERATORS DE-*
13 *SCRIBED.—The following persons shall be considered*
14 *to be an owner or operator eligible to enter into a*
15 *contract:*

16 *(A) An owner of eligible farmland who as-*
17 *sumes all of the risk of producing a crop.*

18 *(B) An owner of eligible farmland who*
19 *shares in the risk of producing a crop.*

20 *(C) An operator of eligible farmland with a*
21 *share-rent lease of the eligible farmland, regard-*
22 *less of the length of the lease, if the owner enters*
23 *into the same contract.*

24 *(D) An operator of eligible farmland who*
25 *cash rents the eligible farmland under a lease ex-*

1 *piring on or after September 30, 2002, in which*
2 *case the consent of the owner is not required.*

3 *(E) An operator of eligible farmland who*
4 *cash rents the eligible farmland under a lease ex-*
5 *piring before September 30, 2002, if the owner*
6 *consents to the contract.*

7 *(F) An owner of eligible farmland who cash*
8 *rents the eligible farmland and the lease term ex-*
9 *pires before September 30, 2002, but only if the*
10 *actual operator of the farm declines to enter into*
11 *a contract. In the case of an owner covered by*
12 *this subparagraph, contract payments shall not*
13 *begin under a contract until the fiscal year fol-*
14 *lowing the fiscal year in which the lease held by*
15 *the nonparticipating operator expires.*

16 *(G) An owner or operator described in a*
17 *preceding subparagraph regardless of whether the*
18 *owner or operator purchased catastrophic risk*
19 *protection for a fall-planted 1996 crop under sec-*
20 *tion 508(b) of the Federal Crop Insurance Act (7*
21 *U.S.C. 1508(b)).*

22 *(3) TENANTS AND SHARECROPPERS.—In carry-*
23 *ing out this section, the Secretary shall provide ade-*
24 *quate safeguards to protect the interests of operators*
25 *who are tenants and sharecroppers.*

1 (b) *ELEMENTS.*—

2 (1) *TIME FOR CONTRACTING.*—

3 (A) *DEADLINE.*—*Except as provided in sub-*
4 *paragraph (B), the Secretary may not enter into*
5 *a contract after April 15, 1996.*

6 (B) *CONSERVATION RESERVE LANDS.*—

7 (i) *IN GENERAL.*—*At the beginning of*
8 *each fiscal year, the Secretary shall allow*
9 *an eligible owner or operator on a farm cov-*
10 *ered by a conservation reserve contract en-*
11 *tered into under section 1231 of the Food*
12 *Security Act of 1985 (16 U.S.C. 3831) that*
13 *terminates after the date specified in sub-*
14 *paragraph (A) to enter into or expand a*
15 *production flexibility contract to cover the*
16 *contract acreage of the farm that was sub-*
17 *ject to the former conservation reserve con-*
18 *tract.*

19 (ii) *AMOUNT.*—*Contract payments*
20 *made for contract acreage under this sub-*
21 *paragraph shall be made at the rate and*
22 *amount applicable to the annual contract*
23 *payment level for the applicable crop.*

24 (2) *DURATION OF CONTRACT.*—

1 (A) *BEGINNING DATE.*—A contract shall
2 begin with—

3 (i) the 1996 crop of a contract com-
4 modity; or

5 (ii) in the case of acreage that was sub-
6 ject to a conservation reserve contract de-
7 scribed in paragraph (1)(B), the date the
8 production flexibility contract was entered
9 into or expanded to cover the acreage.

10 (B) *ENDING DATE.*—A contract shall extend
11 through the 2002 crop.

12 (3) *ESTIMATION OF CONTRACT PAYMENTS.*—At
13 the time the Secretary enters into a contract, the Sec-
14 retary shall provide an estimate of the minimum con-
15 tract payments anticipated to be made during at
16 least the first fiscal year for which contract payments
17 will be made.

18 (c) *ELIGIBLE FARMLAND DESCRIBED.*—Land shall be
19 considered to be farmland eligible for coverage under a con-
20 tract only if the land has contract acreage attributable to
21 the land and—

22 (1) for at least 1 of the 1991 through 1995 crops,
23 at least a portion of the land was enrolled in the acre-
24 age reduction program authorized for a crop of a con-
25 tract commodity under section 101B, 103B, 105B, or

1 *107B of the Agricultural Act of 1949 (as in effect*
2 *prior to the amendment made by section 1109(b)(2))*
3 *or was considered planted;*

4 *(2) was subject to a conservation reserve contract*
5 *under section 1231 of the Food Security Act of 1985*
6 *(16 U.S.C. 3831) whose term expired, or was volun-*
7 *tarily terminated, on or after January 1, 1995; or*

8 *(3) is released from coverage under a conserva-*
9 *tion reserve contract by the Secretary during the pe-*
10 *riod beginning on January 1, 1995, and ending on*
11 *the date specified in subsection (b)(1)(A).*

12 *(d) TIME FOR PAYMENT.—*

13 *(1) IN GENERAL.—An annual contract payment*
14 *shall be made not later than September 30 of each of*
15 *fiscal years 1996 through 2002.*

16 *(2) ADVANCE PAYMENTS.—*

17 *(A) FISCAL YEAR 1996.—At the option of the*
18 *owner or operator, 50 percent of the contract*
19 *payment for fiscal year 1996 shall be made not*
20 *later than 60 days after the date on which the*
21 *owner or operator enters into a contract.*

22 *(B) SUBSEQUENT FISCAL YEARS.—At the*
23 *option of the owner or operator for fiscal year*
24 *1997 and each subsequent fiscal year, 50 percent*

1 *of the annual contract payment shall be made on*
2 *December 15.*

3 *(e) AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS*
4 *FOR EACH FISCAL YEAR.—*

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

8 *(A) For fiscal year 1996, \$5,570,000,000.*

9 *(B) For fiscal year 1997, \$5,385,000,000.*

10 *(C) For fiscal year 1998, \$5,800,000,000.*

11 *(D) For fiscal year 1999, \$5,603,000,000.*

12 *(E) For fiscal year 2000, \$5,130,000,000.*

13 *(F) For fiscal year 2001, \$4,130,000,000.*

14 *(G) For fiscal year 2002, \$4,008,000,000.*

15 *(2) ALLOCATION.—The amount made available*
16 *for a fiscal year under paragraph (1) shall be allo-*
17 *cated as follows:*

18 *(A) For wheat, 26.26 percent.*

19 *(B) For corn, 46.22 percent.*

20 *(C) For grain sorghum, 5.11 percent.*

21 *(D) For barley, 2.16 percent.*

22 *(E) For oats, 0.15 percent.*

23 *(F) For upland cotton, 11.63 percent.*

24 *(G) For rice, 8.47 percent.*

1 (3) *ADJUSTMENT.*—*The Secretary shall adjust*
2 *the amounts allocated for each contract commodity*
3 *under paragraph (2) for a particular fiscal year by—*

4 (A) *subtracting an amount equal to the*
5 *amount, if any, necessary to satisfy payment re-*
6 *quirements under sections 101B, 103B, 105B,*
7 *and 107B of the Agricultural Act of 1949 (as in*
8 *effect prior to the amendment made by section*
9 *1109(b)(2)) for the 1994 and 1995 crops of the*
10 *commodity;*

11 (B) *adding an amount equal to the sum of*
12 *all producer repayments of deficiency payments*
13 *received under section 114(a)(2) of the Act (as so*
14 *in effect) for the commodity;*

15 (C) *adding an amount equal to the sum of*
16 *all contract payments withheld by the Secretary,*
17 *at the request of producers, during the preceding*
18 *fiscal year as an offset against producer repay-*
19 *ments of deficiency payments otherwise required*
20 *under section 114(a)(2) of the Act (as so in ef-*
21 *fect) for the commodity; and*

22 (D) *adding an amount equal to the sum of*
23 *all refunds of contract payments received during*
24 *the preceding fiscal year under subsection (h) for*
25 *the commodity.*

1 (f) *DETERMINATION OF CONTRACT PAYMENTS.*—

2 (1) *INDIVIDUAL PAYMENT QUANTITY OF CON-*
3 *TRACT COMMODITIES.*—*For each contract, the pay-*
4 *ment quantity of a contract commodity for each fiscal*
5 *year shall be equal to the product of—*

6 (A) *85 percent of the contract acreage; and*

7 (B) *the farm program payment yield.*

8 (2) *ANNUAL PAYMENT QUANTITY OF CONTRACT*
9 *COMMODITIES.*—*The payment quantity of each con-*
10 *tract commodity covered by all contracts for each fis-*
11 *cal year shall equal the sum of the amounts calculated*
12 *under paragraph (1) for each individual contract.*

13 (3) *ANNUAL PAYMENT RATE.*—*The payment rate*
14 *for a contract commodity for each fiscal year shall be*
15 *equal to—*

16 (A) *the amount made available under sub-*
17 *section (e) for the contract commodity for the fis-*
18 *cal year; divided by*

19 (B) *the amount determined under para-*
20 *graph (2) for the fiscal year.*

21 (4) *ANNUAL PAYMENT AMOUNT.*—*The amount to*
22 *be paid under a contract in effect for each fiscal year*
23 *with respect to a contract commodity shall be equal*
24 *to the product of—*

1 (A) the payment quantity determined under
2 paragraph (1) with respect to the contract; and

3 (B) the payment rate in effect under para-
4 graph (3).

5 (5) *ASSIGNMENT OF CONTRACT PAYMENTS.*—The
6 provisions of section 8(g) of the Soil Conservation and
7 Domestic Allotment Act (16 U.S.C. 590h(g)) (relating
8 to assignment of payments) shall apply to contract
9 payments under this subsection. The owner or opera-
10 tor making the assignment, or the assignee, shall pro-
11 vide the Secretary with notice, in such manner as the
12 Secretary may require in the contract, of any assign-
13 ment made under this paragraph.

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

18 (g) *PAYMENT LIMITATION.*—The total amount of con-
19 tract payments made to a person under a contract during
20 any fiscal year may not exceed the payment limitations es-
21 tablished under section 1105.

22 (h) *EFFECT OF VIOLATION.*—

23 (1) *TERMINATION OF CONTRACT.*—Except as pro-
24 vided in paragraph (2), if an owner or operator sub-
25 ject to a contract violates the conservation plan for

1 *the farm containing eligible farmland under the con-*
2 *tract, wetland protection requirements applicable to*
3 *the farm, or the planting flexibility requirements of*
4 *subsection (j), the Secretary shall terminate the con-*
5 *tract with respect to the owner or operator. On the*
6 *termination, the owner or operator shall forfeit all*
7 *rights to receive future contract payments and shall*
8 *refund to the Secretary all contract payments received*
9 *by the owner or operator during the period of the vio-*
10 *lation, together with interest on the contract pay-*
11 *ments as determined by the Secretary.*

12 (2) *REFUND OR ADJUSTMENT.—If the Secretary*
13 *determines that a violation does not warrant termi-*
14 *nation of the contract under paragraph (1), the Sec-*
15 *retary may require the owner or operator subject to*
16 *the contract—*

17 (A) *to refund to the Secretary that part of*
18 *the contract payments received by the owner or*
19 *operator during the period of the violation, to-*
20 *gether with interest on the contract payments as*
21 *determined by the Secretary; or*

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

1 (3) *FORECLOSURE.*—An owner or operator sub-
2 ject to a contract may not be required to make repay-
3 ments to the Secretary of amounts received under the
4 contract if the contract acreage has been foreclosed on
5 and the Secretary determines that forgiving the re-
6 payments is appropriate in order to provide fair and
7 equitable treatment. This paragraph shall not void
8 the responsibilities of such an owner or operator
9 under the contract if the owner or operator continues
10 or resumes operation, or control, of the contract acre-
11 age. On the resumption of operation or control over
12 the contract acreage by the owner or operator, the
13 provisions of the contract in effect on the date of the
14 foreclosure shall apply.

15 (4) *REVIEW.*—A determination of the Secretary
16 under this subsection shall be considered to be an ad-
17 verse decision for purposes of the availability of ad-
18 ministrative review of the determination.

19 (i) *TRANSFER OF INTEREST IN LANDS SUBJECT TO*
20 *CONTRACT.*—

21 (1) *EFFECT OF TRANSFER.*—Except as provided
22 in paragraph (2), the transfer by an owner or opera-
23 tor subject to a contract of the right and interest of
24 the owner or operator in the contract acreage shall re-
25 sult in the termination of the contract with respect to

1 *the acreage, effective on the date of the transfer, unless*
2 *the transferee of the acreage agrees with the Secretary*
3 *to assume all obligations of the contract. At the re-*
4 *quest of the transferee, the Secretary may modify the*
5 *contract if the modifications are consistent with the*
6 *objectives of this section as determined by the Sec-*
7 *retary.*

8 (2) *EXCEPTION.—If an owner or operator who is*
9 *entitled to a contract payment dies, becomes incom-*
10 *petent, or is otherwise unable to receive the contract*
11 *payment, the Secretary shall make the payment, in*
12 *accordance with regulations prescribed by the Sec-*
13 *retary.*

14 (j) *PLANTING FLEXIBILITY.—*

15 (1) *PERMITTED CROPS.—Subject to paragraph*
16 *(2)(A), any commodity or crop may be planted on*
17 *contract acreage.*

18 (2) *LIMITATIONS.—*

19 (A) *IN GENERAL.—Except as provided in*
20 *subparagraph (B), the planting of any fruit or*
21 *vegetable, and unlimited haying and grazing,*
22 *shall be permitted on not more than 15 percent*
23 *of the contract acreage.*

24 (B) *EXCEPTION.—Subparagraph (A) shall*
25 *not apply to the planting of contract commod-*

1 *nonrecourse marketing assistance loans for loan com-*
2 *modities produced on the farm. The loans shall be*
3 *made under terms and conditions that are prescribed*
4 *by the Secretary and at the loan rate established*
5 *under subsection (b) for the loan commodity.*

6 (2) *ELIGIBLE PRODUCTION.*—*The following pro-*
7 *duction shall be eligible for a marketing assistance*
8 *loan under this section:*

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

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

16 (b) *LOAN RATES.*—

17 (1) *WHEAT.*—

18 (A) *LOAN RATE.*—*Subject to subparagraph*
19 *(B), the loan rate for a marketing assistance*
20 *loan for wheat shall be—*

21 (i) *not less than 85 percent of the sim-*
22 *ple average price received by producers of*
23 *wheat, as determined by the Secretary, dur-*
24 *ing the marketing years for the immediately*
25 *preceding 5 crops of wheat, excluding the*

1 *year in which the average price was the*
2 *highest and the year in which the average*
3 *price was the lowest in the period; but*

4 *(ii) not more than \$2.58 per bushel.*

5 *(B) STOCKS TO USE RATIO ADJUSTMENT.—*

6 *If the Secretary estimates for any marketing*
7 *year that the ratio of ending stocks of wheat to*
8 *total use for the marketing year will be—*

9 *(i) equal to or greater than 30 percent,*
10 *the Secretary may reduce the loan rate for*
11 *wheat for the corresponding crop by an*
12 *amount not to exceed 10 percent in any*
13 *year;*

14 *(ii) less than 30 percent but not less*
15 *than 15 percent, the Secretary may reduce*
16 *the loan rate for wheat for the correspond-*
17 *ing crop by an amount not to exceed 5 per-*
18 *cent in any year; or*

19 *(iii) less than 15 percent, the Secretary*
20 *may not reduce the loan rate for wheat for*
21 *the corresponding crop.*

22 *(C) NO EFFECT ON FUTURE YEARS.—Any*
23 *reduction in the loan rate for wheat under sub-*
24 *paragraph (B) shall not be considered in deter-*

1 *mining the loan rate for wheat for subsequent*
2 *years.*

3 (2) *FEED GRAINS.—*

4 (A) *LOAN RATE FOR CORN.—Subject to sub-*
5 *paragraph (B), the loan rate for a marketing as-*
6 *sistance loan for corn shall be—*

7 (i) *not less than 85 percent of the sim-*
8 *ple average price received by producers of*
9 *corn, as determined by the Secretary, dur-*
10 *ing the marketing years for the immediately*
11 *preceding 5 crops of corn, excluding the*
12 *year in which the average price was the*
13 *highest and the year in which the average*
14 *price was the lowest in the period; but*

15 (ii) *not more than \$1.89 per bushel.*

16 (B) *STOCKS TO USE RATIO ADJUSTMENT.—*
17 *If the Secretary estimates for any marketing*
18 *year that the ratio of ending stocks of corn to*
19 *total use for the marketing year will be—*

20 (i) *equal to or greater than 25 percent,*
21 *the Secretary may reduce the loan rate for*
22 *corn for the corresponding crop by an*
23 *amount not to exceed 10 percent in any*
24 *year;*

1 (ii) less than 25 percent but not less
2 than 12.5 percent, the Secretary may reduce
3 the loan rate for corn for the corresponding
4 crop by an amount not to exceed 5 percent
5 in any year; or

6 (iii) less than 12.5 percent the Sec-
7 retary may not reduce the loan rate for corn
8 for the corresponding crop.

9 (C) NO EFFECT ON FUTURE YEARS.—Any
10 reduction in the loan rate for corn under sub-
11 paragraph (B) shall not be considered in deter-
12 mining the loan rate for corn for subsequent
13 years.

14 (D) OTHER FEED GRAINS.—The loan rate
15 for a marketing assistance loan for grain sor-
16 ghum, barley, and oats, respectively, shall be es-
17 tablished at such level as the Secretary deter-
18 mines is fair and reasonable in relation to the
19 rate that loans are made available for corn, tak-
20 ing into consideration the feeding value of the
21 commodity in relation to corn.

22 (3) UPLAND COTTON.—

23 (A) LOAN RATE.—Subject to subparagraph
24 (B), the loan rate for a marketing assistance
25 loan for upland cotton shall be established by the

1 *Secretary at such loan rate, per pound, as will*
2 *reflect for the base quality of upland cotton, as*
3 *determined by the Secretary, at average locations*
4 *in the United States a rate that is not less than*
5 *the smaller of—*

6 *(i) 85 percent of the average price*
7 *(weighted by market and month) of the base*
8 *quality of cotton as quoted in the designated*
9 *United States spot markets during 3 years*
10 *of the 5-year period ending July 31 in the*
11 *year in which the loan rate is announced,*
12 *excluding the year in which the average*
13 *price was the highest and the year in which*
14 *the average price was the lowest in the pe-*
15 *riod; or*

16 *(ii) 90 percent of the average, for the*
17 *15-week period beginning July 1 of the year*
18 *in which the loan rate is announced, of the*
19 *5 lowest-priced growths of the growths*
20 *quoted for Middling 1³/₃₂-inch cotton C.I.F.*
21 *Northern Europe (adjusted downward by*
22 *the average difference during the period*
23 *April 15 through October 15 of the year in*
24 *which the loan is announced between the av-*
25 *erage Northern European price quotation of*

1 *such quality of cotton and the market*
2 *quotations in the designated United States*
3 *spot markets for the base quality of upland*
4 *cotton), as determined by the Secretary.*

5 *(B) LIMITATIONS.—The loan rate for a*
6 *marketing assistance loan for upland cotton shall*
7 *not be less than \$0.50 per pound or more than*
8 *\$0.5192 per pound.*

9 *(4) EXTRA LONG STAPLE COTTON.—The loan*
10 *rate for a marketing assistance loan for extra long*
11 *staple cotton shall be—*

12 *(A) not less than 85 percent of the simple*
13 *average price received by producers of extra long*
14 *staple cotton, as determined by the Secretary,*
15 *during 3 years of the 5 previous marketing*
16 *years, excluding the year in which the average*
17 *price was the highest and the year in which the*
18 *average price was the lowest in the period; but*

19 *(B) not more than \$0.7965 per pound.*

20 *(5) RICE.—The loan rate for a marketing assist-*
21 *ance loan for rice shall be \$6.50 per hundredweight.*

22 *(6) OILSEEDS.—*

23 *(A) SOYBEANS.—The loan rate for a mar-*
24 *keting assistance loan for soybeans shall be \$4.92*
25 *per bushel.*

1 (B) *SUNFLOWER SEED, CANOLA, RAPESEED,*
2 *SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—*
3 *The loan rates for a marketing assistance loan*
4 *for sunflower seed, canola, rapeseed, safflower,*
5 *mustard seed, and flaxseed, individually, shall be*
6 *\$0.087 per pound.*

7 (C) *OTHER OILSEEDS.—The loan rates for*
8 *a marketing assistance loan for other oilseeds*
9 *shall be established at such level as the Secretary*
10 *determines is fair and reasonable in relation to*
11 *the loan rate available for soybeans, except in no*
12 *event shall the rate for the oilseeds (other than*
13 *cottonseed) be less than the rate established for*
14 *soybeans on a per-pound basis for the same crop.*

15 (c) *TERM OF LOAN.—In the case of each loan commod-*
16 *ity (other than upland cotton or extra long staple cotton),*
17 *a marketing assistance loan under subsection (a) shall have*
18 *a term of 9 months beginning on the first day of the first*
19 *month after the month in which the loan is made. A market-*
20 *ing assistance loan for upland cotton or extra long staple*
21 *cotton shall have a term of 10 months. The Secretary may*
22 *not extend the term of a marketing assistance loan for any*
23 *loan commodity.*

24 (d) *REPAYMENT.—*

1 (1) *REPAYMENT RATES GENERALLY.*—*The Sec-*
2 *retary shall permit producers to repay a marketing*
3 *assistance loan under subsection (a) for a loan com-*
4 *modity (other than extra long staple cotton) at a level*
5 *that is the lesser of—*

6 (A) *the loan rate established for the com-*
7 *modity under subsection (b); or*

8 (B) *the prevailing world market price for*
9 *the commodity (adjusted to United States qual-*
10 *ity and location), as determined by the Sec-*
11 *retary.*

12 (2) *REPAYMENT RATES FOR EXTRA LONG STAPLE*
13 *COTTON.*—*Repayment of a marketing assistance loan*
14 *for extra long staple cotton shall be at the loan rate*
15 *established for the commodity under subsection (b).*

16 (3) *PREVAILING WORLD MARKET PRICE.*—*For*
17 *purposes of paragraph (1)(B) and subsection (f), the*
18 *Secretary shall prescribe by regulation—*

19 (A) *a formula to determine the prevailing*
20 *world market price for each loan commodity, ad-*
21 *justed to United States quality and location; and*

22 (B) *a mechanism by which the Secretary*
23 *shall announce periodically the prevailing world*
24 *market price for each loan commodity.*

1 (4) *ADJUSTMENT OF PREVAILING WORLD MAR-*
2 *KET PRICE FOR UPLAND COTTON.—*

3 (A) *IN GENERAL.—During the period end-*
4 *ing July 31, 2003, the prevailing world market*
5 *price for upland cotton (adjusted to United*
6 *States quality and location) established under*
7 *paragraph (3) shall be further adjusted if—*

8 (i) *the adjusted prevailing world mar-*
9 *ket price is less than 115 percent of the loan*
10 *rate for upland cotton established under*
11 *subsection (b), as determined by the Sec-*
12 *retary; and*

13 (ii) *the Friday through Thursday aver-*
14 *age price quotation for the lowest-priced*
15 *United States growth as quoted for Mid-*
16 *dling (M) 1³/₃₂-inch cotton delivered C.I.F.*
17 *Northern Europe is greater than the Friday*
18 *through Thursday average price of the 5*
19 *lowest-priced growths of upland cotton, as*
20 *quoted for Middling (M) 1³/₃₂-inch cotton,*
21 *delivered C.I.F. Northern Europe (referred*
22 *to in this subsection as the “Northern Eu-*
23 *rope price”).*

24 (B) *FURTHER ADJUSTMENT.—Except as*
25 *provided in subparagraph (C), the adjusted pre-*

1 *prevailing world market price for upland cotton*
2 *shall be further adjusted on the basis of some or*
3 *all of the following data, as available:*

4 *(i) The United States share of world*
5 *exports.*

6 *(ii) The current level of cotton export*
7 *sales and cotton export shipments.*

8 *(iii) Other data determined by the Sec-*
9 *retary to be relevant in establishing an ac-*
10 *curate prevailing world market price for*
11 *upland cotton (adjusted to United States*
12 *quality and location).*

13 *(C) LIMITATION ON FURTHER ADJUST-*
14 *MENT.—The adjustment under subparagraph (B)*
15 *may not exceed the difference between—*

16 *(i) the Friday through Thursday aver-*
17 *age price for the lowest-priced United States*
18 *growth as quoted for Middling 1³/₃₂-inch*
19 *cotton delivered C.I.F. Northern Europe;*
20 *and*

21 *(ii) the Northern Europe price.*

22 *(e) LOAN DEFICIENCY PAYMENTS.—*

23 *(1) AVAILABILITY.—Except as provided in para-*
24 *graph (4), the Secretary may make loan deficiency*
25 *payments available to producers who, although eligi-*

1 *ble to obtain a marketing assistance loan under sub-*
2 *section (a) with respect to a loan commodity, agree*
3 *to forgo obtaining the loan for the commodity in re-*
4 *turn for payments under this subsection.*

5 (2) *COMPUTATION.*—*A loan deficiency payment*
6 *under this subsection shall be computed by multiply-*
7 *ing—*

8 (A) *the loan payment rate determined*
9 *under paragraph (3) for the loan commodity; by*

10 (B) *the quantity of the loan commodity that*
11 *the producers on a farm are eligible to place*
12 *under loan but for which the producers forgo ob-*
13 *taining the loan in return for payments under*
14 *this subsection.*

15 (3) *LOAN PAYMENT RATE.*—*For purposes of this*
16 *subsection, the loan payment rate shall be the amount*
17 *by which—*

18 (A) *the loan rate established under sub-*
19 *section (b) for the loan commodity; exceeds*

20 (B) *the rate at which a loan for the com-*
21 *modity may be repaid under subsection (d).*

22 (4) *EXCEPTION FOR EXTRA LONG STAPLE COT-*
23 *TON.*—*This subsection shall not apply with respect to*
24 *extra long staple cotton.*

1 (f) *SPECIAL MARKETING LOAN PROVISIONS FOR UP-*
2 *LAND COTTON.*—

3 (1) *FIRST HANDLER MARKETING CERTIFI-*
4 *CATES.*—

5 (A) *IN GENERAL.*—*During the period end-*
6 *ing on July 31, 2003, if the repayment rates*
7 *provided in subsection (d) for upland cotton or*
8 *the availability of loan deficiency payments for*
9 *upland cotton under subsection (e) fails to make*
10 *United States upland cotton fully competitive in*
11 *world markets and the prevailing world market*
12 *price of upland cotton (adjusted to United States*
13 *quality and location) is below the current loan*
14 *repayment rate for upland cotton, to make Unit-*
15 *ed States upland cotton competitive in world*
16 *markets and to maintain and expand domestic*
17 *consumption and exports of upland cotton pro-*
18 *duced in the United States, the Secretary shall*
19 *provide for the issuance of marketing certificates*
20 *or cash payments in accordance with this para-*
21 *graph.*

22 (B) *PAYMENTS.*—*The Commodity Credit*
23 *Corporation, under such regulations as the Sec-*
24 *retary may prescribe, shall make payments,*
25 *through the issuance of marketing certificates or*

1 *cash payments, to first handlers of upland cotton*
2 *(persons regularly engaged in buying or selling*
3 *upland cotton) who have entered into an agree-*
4 *ment with the Commodity Credit Corporation to*
5 *participate in the program established under this*
6 *paragraph. The payments shall be made in such*
7 *amounts and subject to such terms and condi-*
8 *tions as the Secretary determines will make up-*
9 *land cotton produced in the United States avail-*
10 *able at competitive prices, consistent with the*
11 *purposes of this paragraph.*

12 (C) *VALUE.*—*The value of each certificate or*
13 *cash payment issued under subparagraph (B)*
14 *shall be based on the difference between—*

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

17 (ii) *the prevailing world market price*
18 *of upland cotton (adjusted to United States*
19 *quality and location), as determined by the*
20 *Secretary.*

21 (D) *REDEMPTION, MARKETING, OR EX-*
22 *CHANGE.*—*The Commodity Credit Corporation,*
23 *under regulations prescribed by the Secretary,*
24 *may assist any person receiving marketing cer-*
25 *tificates under this paragraph in the redemption*

1 *of certificates for cash, or marketing or exchange*
2 *of the certificates for agricultural commodities or*
3 *products owned by the Commodity Credit Cor-*
4 *poration, at such times, in such manner, and at*
5 *such price levels as the Secretary determines will*
6 *best effectuate the purposes of the program estab-*
7 *lished under this paragraph. Any price restric-*
8 *tions that may otherwise apply to the disposition*
9 *of agricultural commodities by the Commodity*
10 *Credit Corporation shall not apply to the re-*
11 *demption of certificates under this paragraph.*

12 *(E) DESIGNATION OF COMMODITIES AND*
13 *PRODUCTS; CHARGES.—Insofar as practicable,*
14 *the Secretary shall permit owners of certificates*
15 *to designate the commodities and products, in-*
16 *cluding storage sites, the owners would prefer to*
17 *receive in exchange for certificates. If any certifi-*
18 *cate is not presented for redemption, marketing,*
19 *or exchange within a reasonable number of days*
20 *after the issuance of the certificate (as deter-*
21 *mined by the Secretary), reasonable costs of stor-*
22 *age and other carrying charges, as determined by*
23 *the Secretary, shall be deducted from the value of*
24 *the certificate for the period beginning after the*
25 *reasonable number of days and ending with the*

1 *date of the presentation of the certificate to the*
2 *Commodity Credit Corporation.*

3 *(F) DISPLACEMENT.—The Secretary shall*
4 *take such measures as may be necessary to pre-*
5 *vent the marketing or exchange of agricultural*
6 *commodities and products for certificates under*
7 *this subsection from adversely affecting the in-*
8 *come of producers of the commodities or prod-*
9 *ucts.*

10 *(G) TRANSFERS.—Under regulations pre-*
11 *scribed by the Secretary, certificates issued to*
12 *cotton handlers under this paragraph may be*
13 *transferred to other handlers and persons ap-*
14 *proved by the Secretary.*

15 *(2) COTTON USER MARKETING CERTIFICATES.—*

16 *(A) ISSUANCE.—Subject to subparagraph*
17 *(D), during the period ending July 31, 2003, the*
18 *Secretary shall issue marketing certificates or*
19 *cash payments to domestic users and exporters*
20 *for documented purchases by domestic users and*
21 *sales for export by exporters made in the week*
22 *following a consecutive 4-week period in which—*

23 *(i) the Friday through Thursday aver-*
24 *age price quotation for the lowest-priced*
25 *United States growth, as quoted for Mid-*

1 *dling (M) 1³/₃₂-inch cotton, delivered C.I.F.*
2 *Northern Europe exceeds the Northern Eu-*
3 *rope price by more than 1.25 cents per*
4 *pound; and*

5 *(ii) the prevailing world market price*
6 *for upland cotton (adjusted to United States*
7 *quality and location) does not exceed 130*
8 *percent of the loan rate for upland cotton*
9 *established under subsection (b).*

10 *(B) VALUE OF CERTIFICATES OR PAY-*
11 *MENTS.—The value of the marketing certificates*
12 *or cash payments shall be based on the amount*
13 *of the difference (reduced by 1.25 cents per*
14 *pound) in the prices during the 4th week of the*
15 *consecutive 4-week period multiplied by the*
16 *quantity of upland cotton included in the docu-*
17 *mented sales.*

18 *(C) ADMINISTRATION.—Subparagraphs (D)*
19 *through (G) of paragraph (1) shall apply to*
20 *marketing certificates issued under this para-*
21 *graph. Any such certificates may be transferred*
22 *to other persons in accordance with regulations*
23 *issued by the Secretary.*

24 *(D) EXCEPTION.—The Secretary shall not*
25 *issue marketing certificates or cash payments*

1 under subparagraph (A) if, for the immediately
2 preceding consecutive 10-week period, the Friday
3 through Thursday average price quotation for the
4 lowest priced United States growth, as quoted for
5 Middling (M) $1^{3/32}$ -inch cotton, delivered C.I.F.
6 Northern Europe, adjusted for the value of any
7 certificate issued under this paragraph, exceeds
8 the Northern Europe price by more than 1.25
9 cents per pound.

10 (E) *LIMITATION ON EXPENDITURES.*—Total
11 expenditures under this paragraph shall not ex-
12 ceed \$701,000,000 during fiscal years 1996
13 through 2002.

14 (3) *SPECIAL IMPORT QUOTA.*—

15 (A) *ESTABLISHMENT.*—The President shall
16 carry out an import quota program that pro-
17 vides that, during the period ending July 31,
18 2003, whenever the Secretary determines and an-
19 nounces that for any consecutive 10-week period,
20 the Friday through Thursday average price
21 quotation for the lowest-priced United States
22 growth, as quoted for Middling (M) $1^{3/32}$ -inch
23 cotton, delivered C.I.F. Northern Europe, ad-
24 justed for the value of any certificates issued
25 under paragraph (2), exceeds the Northern Eu-

1 *rope price by more than 1.25 cents per pound,*
2 *there shall immediately be in effect a special im-*
3 *port quota.*

4 *(B) QUANTITY.—The quota shall be equal to*
5 *1 week’s consumption of upland cotton by domes-*
6 *tic mills at the seasonally adjusted average rate*
7 *of the most recent 3 months for which data are*
8 *available.*

9 *(C) APPLICATION.—The quota shall apply*
10 *to upland cotton purchased not later than 90*
11 *days after the date of the Secretary’s announce-*
12 *ment under subparagraph (A) and entered into*
13 *the United States not later than 180 days after*
14 *the date.*

15 *(D) OVERLAP.—A special quota period may*
16 *be established that overlaps any existing quota*
17 *period if required by subparagraph (A), except*
18 *that a special quota period may not be estab-*
19 *lished under this paragraph if a quota period*
20 *has been established under subsection (g).*

21 *(E) PREFERENTIAL TARIFF TREATMENT.—*
22 *The quantity under a special import quota shall*
23 *be considered to be an in-quota quantity for pur-*
24 *poses of—*

1 (i) section 213(d) of the Caribbean
2 *Basin Economic Recovery Act (19 U.S.C.*
3 *2703(d));*

4 (ii) section 204 of the *Andean Trade*
5 *Preference Act (19 U.S.C. 3203);*

6 (iii) section 503(d) of the *Trade Act of*
7 *1974 (19 U.S.C. 2463(d)); and*

8 (iv) *General Note 3(a)(iv) to the Har-*
9 *monized Tariff Schedule.*

10 (F) *DEFINITION.—In this paragraph, the*
11 *term “special import quota” means a quantity of*
12 *imports that is not subject to the over-quota tar-*
13 *iff rate of a tariff-rate quota.*

14 (g) *LIMITED GLOBAL IMPORT QUOTA FOR UPLAND*
15 *COTTON.—*

16 (1) *IN GENERAL.—The President shall carry out*
17 *an import quota program that provides that whenever*
18 *the Secretary determines and announces that the av-*
19 *erage price of the base quality of upland cotton, as de-*
20 *termined by the Secretary, in the designated spot*
21 *markets for a month exceeded 130 percent of the aver-*
22 *age price of such quality of cotton in the markets for*
23 *the preceding 36 months, notwithstanding any other*
24 *provision of law, there shall immediately be in effect*

1 *a limited global import quota subject to the following*
2 *conditions:*

3 (A) *QUANTITY.*—*The quantity of the quota*
4 *shall be equal to 21 days of domestic mill con-*
5 *sumption of upland cotton at the seasonally ad-*
6 *justed average rate of the most recent 3 months*
7 *for which data are available.*

8 (B) *QUANTITY IF PRIOR QUOTA.*—*If a quota*
9 *has been established under this subsection during*
10 *the preceding 12 months, the quantity of the*
11 *quota next established under this subsection shall*
12 *be the smaller of 21 days of domestic mill con-*
13 *sumption calculated under subparagraph (A) or*
14 *the quantity required to increase the supply to*
15 *130 percent of the demand.*

16 (C) *PREFERENTIAL TARIFF TREATMENT.*—
17 *The quantity under a limited global import*
18 *quota shall be considered to be an in-quota quan-*
19 *tity for purposes of—*

20 (i) *section 213(d) of the Caribbean*
21 *Basin Economic Recovery Act (19 U.S.C.*
22 *2703(d));*

23 (ii) *section 204 of the Andean Trade*
24 *Preference Act (19 U.S.C. 3203);*

1 (iii) section 503(d) of the Trade Act of
2 1974 (19 U.S.C. 2463(d)); and

3 (iv) General Note 3(a)(iv) to the Har-
4 monized Tariff Schedule.

5 (D) DEFINITIONS.—In this subsection:

6 (i) SUPPLY.—The term “supply”
7 means, using the latest official data of the
8 Bureau of the Census, the Department of
9 Agriculture, and the Department of the
10 Treasury—

11 (I) the carry-over of upland cotton
12 at the beginning of the marketing year
13 (adjusted to 480-pound bales) in which
14 the quota is established;

15 (II) production of the current
16 crop; and

17 (III) imports to the latest date
18 available during the marketing year.

19 (ii) DEMAND.—The term “demand”
20 means—

21 (I) the average seasonally adjusted
22 annual rate of domestic mill consump-
23 tion in the most recent 3 months for
24 which data are available; and

25 (II) the larger of—

1 (aa) average exports of up-
2 land cotton during the preceding
3 6 marketing years; or

4 (bb) cumulative exports of
5 upland cotton plus outstanding
6 export sales for the marketing
7 year in which the quota is estab-
8 lished.

9 (iii) LIMITED GLOBAL IMPORT
10 QUOTA.—The term “limited global import
11 quota” means a quantity of imports that is
12 not subject to the over-quota tariff rate of a
13 tariff-rate quota.

14 (D) QUOTA ENTRY PERIOD.—When a quota
15 is established under this subsection, cotton may
16 be entered under the quota during the 90-day pe-
17 riod beginning on the date the quota is estab-
18 lished by the Secretary.

19 (2) NO OVERLAP.—Notwithstanding paragraph
20 (1), a quota period may not be established that over-
21 laps an existing quota period or a special quota pe-
22 riod established under subsection (f)(3).

23 **SEC. 1105. PAYMENT LIMITATIONS.**

24 (a) LIMITATION ON PAYMENTS UNDER PRODUCTION
25 FLEXIBILITY CONTRACTS.—The total amount of contract

1 *payments made to a person under 1 or more production*
2 *flexibility contracts during any fiscal year may not exceed*
3 *\$40,000.*

4 (b) *LIMITATION ON MARKETING LOAN GAINS AND*
5 *LOAN DEFICIENCY PAYMENTS.—*

6 (1) *LIMITATION.—The total amount of payments*
7 *specified in paragraph (2) that a person shall be enti-*
8 *tled to receive under section 1104 for contract com-*
9 *modities and oilseeds during any fiscal year may not*
10 *exceed \$75,000.*

11 (2) *DESCRIPTION OF PAYMENTS.—The payments*
12 *referred to in paragraph (1) are the following:*

13 (A) *Any gain realized by a producer from*
14 *repaying a marketing assistance loan for a crop*
15 *of any loan commodity at a lower level than the*
16 *original loan rate established for the commodity*
17 *under section 1104(b).*

18 (B) *Any loan deficiency payment received*
19 *for a loan commodity under section 1104(e).*

20 (c) *APPLICABILITY OF OTHER PROVISIONS REGARD-*
21 *ING PAYMENT LIMITATIONS.—Paragraphs (5), (6), and (7)*
22 *of section 1001 and sections 1001A through 1001C of the*
23 *Food Security Act of 1985 (7 U.S.C. 1308 et seq.) shall*
24 *apply with respect to the application of payment limita-*
25 *tions under this section.*

1 (d) *CONFORMING AMENDMENTS.*—Section 1001 of the
2 *Food Security Act of 1985 (7 U.S.C. 1308)* is amended by
3 striking “1997” each place it appears in paragraphs (1)(A),
4 (1)(B), and (2)(A) and inserting “1995”.

5 **SEC. 1106. PEANUT PROGRAM.**

6 (a) *QUOTA PEANUTS.*—

7 (1) *AVAILABILITY OF LOANS.*—The Secretary
8 shall make nonrecourse loans available to producers of
9 quota peanuts.

10 (2) *LOAN RATE.*—The national average quota
11 loan rate for quota peanuts shall be \$610 per ton.

12 (3) *INSPECTION, HANDLING, OR STORAGE.*—The
13 loan amount may not be reduced by the Secretary by
14 any deductions for inspection, handling, or storage.

15 (4) *LOCATION AND OTHER FACTORS.*—The Sec-
16 retary may make adjustments in the loan rate for
17 quota peanuts for location of peanuts and such other
18 factors as are authorized by section 411 of the Agri-
19 cultural Adjustment Act of 1938.

20 (b) *ADDITIONAL PEANUTS.*—

21 (1) *IN GENERAL.*—The Secretary shall make
22 nonrecourse loans available to producers of additional
23 peanuts at such rates as the Secretary finds appro-
24 priate, taking into consideration the demand for pea-
25 nut oil and peanut meal, expected prices of other veg-

1 *etable oils and protein meals, and the demand for*
2 *peanuts in foreign markets.*

3 (2) *ANNOUNCEMENT.—The Secretary shall an-*
4 *nonce the loan rate for additional peanuts of each*
5 *crop not later than February 15 preceding the mar-*
6 *keting year for the crop for which the loan rate is*
7 *being determined.*

8 (c) *AREA MARKETING ASSOCIATIONS.—*

9 (1) *WAREHOUSE STORAGE LOANS.—*

10 (A) *IN GENERAL.—In carrying out sub-*
11 *sections (a) and (b), the Secretary shall make*
12 *warehouse storage loans available in each of the*
13 *producing areas (described in section 1446.95 of*
14 *title 7 of the Code of Federal Regulations (Janu-*
15 *ary 1, 1989)) to a designated area marketing as-*
16 *sociation of peanut producers that is selected and*
17 *approved by the Secretary and that is operated*
18 *primarily for the purpose of conducting the loan*
19 *activities. The Secretary may not make ware-*
20 *house storage loans available to any cooperative*
21 *that is engaged in operations or activities con-*
22 *cerning peanuts other than those operations and*
23 *activities specified in this section and section*
24 *358e of the Agricultural Adjustment Act of 1938*
25 *(7 U.S.C. 1359a).*

1 (B) *ADMINISTRATIVE AND SUPERVISORY AC-*
2 *TIVITIES.*—*An area marketing association shall*
3 *be used in administrative and supervisory ac-*
4 *activities relating to loans and marketing activities*
5 *under this section and section 358e of the Agri-*
6 *cultural Adjustment Act of 1938 (7 U.S.C.*
7 *1359a).*

8 (C) *ASSOCIATION COSTS.*—*Loans made to*
9 *the association under this paragraph shall in-*
10 *clude such costs as the area marketing associa-*
11 *tion reasonably may incur in carrying out the*
12 *responsibilities, operations, and activities of the*
13 *association under this section and section 358e of*
14 *the Agricultural Adjustment Act of 1938 (7*
15 *U.S.C. 1359a).*

16 (2) *POOLS FOR QUOTA AND ADDITIONAL PEA-*
17 *NUTS.*—

18 (A) *IN GENERAL.*—*The Secretary shall re-*
19 *quire that each area marketing association estab-*
20 *lish pools and maintain complete and accurate*
21 *records by area and segregation for quota pea-*
22 *nuts handled under loan and for additional pea-*
23 *nuts placed under loan, except that separate*
24 *pools shall be established for Valencia peanuts*
25 *produced in New Mexico. Bright hull and dark*

1 *hull Valencia peanuts shall be considered as sep-*
2 *arate types for the purpose of establishing the*
3 *pools.*

4 (B) *NET GAINS.*—*Net gains on peanuts in*
5 *each pool, unless otherwise approved by the Sec-*
6 *retary, shall be distributed only to producers who*
7 *placed peanuts in the pool and shall be distrib-*
8 *uted in proportion to the value of the peanuts*
9 *placed in the pool by each producer. Net gains*
10 *for peanuts in each pool shall consist of the fol-*
11 *lowing:*

12 (i) *QUOTA PEANUTS.*—*For quota pea-*
13 *nuts, the net gains over and above the loan*
14 *indebtedness and other costs or losses in-*
15 *curring on peanuts placed in the pool.*

16 (ii) *ADDITIONAL PEANUTS.*—*For addi-*
17 *tional peanuts, the net gains over and above*
18 *the loan indebtedness and other costs or*
19 *losses incurred on peanuts placed in the*
20 *pool for additional peanuts.*

21 (d) *LOSSES.*—*Losses in quota area pools shall be cov-*
22 *ered using the following sources in the following order of*
23 *priority:*

24 (1) *TRANSFERS FROM ADDITIONAL LOAN*
25 *POOLS.*—*The proceeds due any producer from any*

1 *pool shall be reduced by the amount of any loss that*
2 *is incurred with respect to peanuts transferred from*
3 *an additional loan pool to a quota loan pool by the*
4 *producer under section 358–1(b)(8) of the Agricultural*
5 *Adjustment Act of 1938 (7 U.S.C. 1358–*
6 *1(b)(8)).*

7 (2) *OTHER PRODUCERS IN SAME POOL.—Further*
8 *losses in an area quota pool shall be offset by reduc-*
9 *ing the gain of any producer in the pool by the*
10 *amount of pool gains attributed to the same producer*
11 *from the sale of additional peanuts for domestic and*
12 *export edible use.*

13 (3) *USE OF MARKETING ASSESSMENTS.—The*
14 *Secretary shall use funds collected under subsection*
15 *(g) (except funds attributable to handlers) to offset*
16 *further losses in area quota pools. The Secretary shall*
17 *transfer to the Treasury those funds collected under*
18 *subsection (g) and available for use under this sub-*
19 *section that the Secretary determines are not required*
20 *to cover losses in area quota pools.*

21 (4) *CROSS COMPLIANCE.—Further losses in area*
22 *quota pools, other than losses incurred as a result of*
23 *transfers from additional loan pools to quota loan*
24 *pools under section 358–1(b)(8) of the Agricultural*
25 *Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall*

1 *be offset by any gains or profits from quota pools in*
2 *other production areas (other than separate type pools*
3 *established under subsection (c)(2)(A) for Valencia*
4 *peanuts produced in New Mexico) in such manner as*
5 *the Secretary shall by regulation prescribe.*

6 (5) *INCREASED ASSESSMENTS.—If use of the au-*
7 *thorities provided in the preceding paragraphs is not*
8 *sufficient to cover losses in an area quota pool, the*
9 *Secretary shall increase the marketing assessment es-*
10 *tablished under subsection (g) by such an amount as*
11 *the Secretary considers necessary to cover the losses.*
12 *The increased assessment shall apply only to quota*
13 *peanuts in the production area covered by the pool.*
14 *Amounts collected under subsection (g) as a result of*
15 *the increased assessment shall be retained by the Sec-*
16 *retary to cover losses in that pool.*

17 (e) *DISAPPROVAL OF QUOTAS.—Notwithstanding any*
18 *other provision of law, no loan for quota peanuts may be*
19 *made available by the Secretary for any crop of peanuts*
20 *with respect to which poundage quotas have been dis-*
21 *approved by producers, as provided for in section 358–1(d)*
22 *of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–*
23 *1(d)).*

24 (f) *QUALITY IMPROVEMENT.—*

1 (1) *IN GENERAL.*—*With respect to peanuts under*
2 *loan, the Secretary shall—*

3 (A) *promote the crushing of peanuts at a*
4 *greater risk of deterioration before peanuts of a*
5 *lesser risk of deterioration;*

6 (B) *ensure that all Commodity Credit Cor-*
7 *poration inventories of peanuts sold for domestic*
8 *edible use must be shown to have been officially*
9 *inspected by licensed Department of Agriculture*
10 *inspectors both as farmer stock and shelled or*
11 *cleaned in-shell peanuts;*

12 (C) *continue to endeavor to operate the pea-*
13 *nut program so as to improve the quality of do-*
14 *mestic peanuts and ensure the coordination of*
15 *activities under the Peanut Administrative Com-*
16 *mittee established under Marketing Agreement*
17 *No. 146, regulating the quality of domestically*
18 *produced peanuts (under the Agricultural Ad-*
19 *justment Act (7 U.S.C. 601 et seq.), reenacted*
20 *with amendments by the Agricultural Marketing*
21 *Agreement Act of 1937); and*

22 (D) *ensure that any changes made in the*
23 *peanut program as a result of this subsection re-*
24 *quiring additional production or handling at the*
25 *farm level shall be reflected as an upward adjust-*

1 *ment in the Department of Agriculture loan*
2 *schedule.*

3 (2) *EXPORTS AND OTHER PEANUTS.—The Sec-*
4 *retary shall require that all peanuts in the domestic*
5 *and export markets fully comply with all quality*
6 *standards under Marketing Agreement No. 146.*

7 (g) *MARKETING ASSESSMENT.—*

8 (1) *IN GENERAL.—The Secretary shall provide*
9 *for a nonrefundable marketing assessment. The assess-*
10 *ment shall be made on a per pound basis in an*
11 *amount equal to 1.1 percent for each of the 1994 and*
12 *1995 crops, 1.15 percent for the 1996 crop, and 1.2*
13 *percent for each of the 1997 through 2002 crops, of the*
14 *national average quota or additional peanut loan rate*
15 *for the applicable crop.*

16 (2) *FIRST PURCHASERS.—*

17 (A) *IN GENERAL.—Except as provided*
18 *under paragraphs (3) and (4), the first pur-*
19 *chaser of peanuts shall—*

20 (i) *collect from the producer a market-*
21 *ing assessment equal to the quantity of pea-*
22 *nuts acquired multiplied by—*

23 (I) *in the case of each of the 1994*
24 *and 1995 crops, .55 percent of the ap-*
25 *plicable national average loan rate;*

1 (II) in the case of the 1996 crop,
2 .6 percent of the applicable national
3 average loan rate; and

4 (III) in the case of each of the
5 1997 through 2002 crops, .65 percent
6 of the applicable national average loan
7 rate;

8 (ii) pay, in addition to the amount
9 collected under clause (i), a marketing as-
10 sessment in an amount equal to the quan-
11 tity of peanuts acquired multiplied by .55
12 percent of the applicable national average
13 loan rate; and

14 (iii) remit the amounts required under
15 clauses (i) and (ii) to the Commodity Credit
16 Corporation in a manner specified by the
17 Secretary.

18 (B) DEFINITION OF FIRST PURCHASER.—In
19 this subsection, the term “first purchaser” means
20 a person acquiring peanuts from a producer ex-
21 cept that in the case of peanuts forfeited by a
22 producer to the Commodity Credit Corporation,
23 the term means the person acquiring the peanuts
24 from the Commodity Credit Corporation.

1 (3) *OTHER PRIVATE MARKETINGS.*—*In the case*
2 *of a private marketing by a producer directly to a*
3 *consumer through a retail or wholesale outlet or in*
4 *the case of a marketing by the producer outside of the*
5 *continental United States, the producer shall be re-*
6 *sponsible for the full amount of the assessment and*
7 *shall remit the assessment by such time as is specified*
8 *by the Secretary.*

9 (4) *LOAN PEANUTS.*—*In the case of peanuts that*
10 *are pledged as collateral for a loan made under this*
11 *section, $\frac{1}{2}$ of the assessment shall be deducted from*
12 *the proceeds of the loan. The remainder of the assess-*
13 *ment shall be paid by the first purchaser of the pea-*
14 *nuts. For purposes of computing net gains on peanuts*
15 *under this section, the reduction in loan proceeds*
16 *shall be treated as having been paid to the producer.*

17 (5) *PENALTIES.*—*If any person fails to collect or*
18 *remit the reduction required by this subsection or*
19 *fails to comply with the requirements for record-*
20 *keeping or otherwise as are required by the Secretary*
21 *to carry out this subsection, the person shall be liable*
22 *to the Secretary for a civil penalty up to an amount*
23 *determined by multiplying—*

24 (A) *the quantity of peanuts involved in the*
25 *violation; by*

1 (B) the national average quota peanut rate
2 for the applicable crop year.

3 (6) ENFORCEMENT.—The Secretary may enforce
4 this subsection in the courts of the United States.

5 (h) CROPS.—Subsections (a) through (f) shall be effec-
6 tive only for the 1996 through 2002 crops of peanuts.

7 (i) MARKETING QUOTAS.—

8 (1) IN GENERAL.—Part VI of subtitle B of title
9 III of the Agricultural Adjustment Act of 1938 is
10 amended—

11 (A) in section 358–1 (7 U.S.C. 1358–1)—

12 (i) in the section heading, by striking
13 **“1991 through 1997 crops of”**;

14 (ii) in subsections (a)(1), (b)(1)(B),
15 (b)(2)(A), (b)(2)(C), and (b)(3)(A), by strik-
16 ing “of the 1991 through 1997 marketing
17 years” each place it appears and inserting
18 “marketing year”;

19 (iii) in subsection (a)(3), by striking
20 “1990” and inserting “1990, for the 1991
21 through 1995 marketing years, and 1995,
22 for the 1996 through 2002 marketing
23 years”;

24 (iv) in subsection (b)(1)(A)—

1 (I) by striking “each of the 1991
2 through 1997 marketing years” and
3 inserting “each marketing year”; and
4 (II) in clause (i), by inserting be-
5 fore the semicolon the following: “, in
6 the case of the 1991 through 1995 mar-
7 keting years, and the 1995 marketing
8 year, in the case of the 1996 through
9 2002 marketing years”; and
10 (v) in subsection (f), by striking
11 “1997” and inserting “2002”;

12 (B) in section 358b (7 U.S.C. 1358b)—
13 (i) in the section heading, by striking
14 **“1991 through 1995 crops of”**; and
15 (ii) in subsection (c), by striking
16 “1995” and inserting “2002”;

17 (C) in section 358c(d) (7 U.S.C. 1358c(d)),
18 by striking “1995” and inserting “2002”; and
19 (D) in section 358e (7 U.S.C. 1359a)—
20 (i) in the section heading, by striking
21 **“for 1991 through 1997 crops of**
22 **peanuts”**; and
23 (ii) in subsection (i), by striking
24 “1997” and inserting “2002”.

1 (2) *ELIMINATION OF QUOTA FLOOR.*—Section
2 358–1(a)(1) of the Act (7 U.S.C. 1358–1(a)(1)) is
3 amended by striking the second sentence.

4 (3) *TEMPORARY QUOTA ALLOCATION.*—Section
5 358–1 of the Act (7 U.S.C. 1358–1) is amended—

6 (A) in subsection (a)(1), by striking “do-
7 mestic edible, seed,” and inserting “domestic edi-
8 ble use”; and

9 (B) in subsection (b)(2)—

10 (i) in subparagraph (A), by striking
11 “subparagraph (B) and subject to”; and

12 (ii) by striking subparagraph (B) and
13 inserting the following:

14 “(B) *TEMPORARY QUOTA ALLOCATION.*—

15 “(i) *ALLOCATION RELATED TO SEED*
16 *PEANUTS.*—Temporary allocation of quota
17 pounds for the marketing year only in
18 which the crop is planted shall be made to
19 producers for each of the 1996 through 2002
20 marketing years as provided in this sub-
21 paragraph.

22 “(ii) *QUANTITY.*—The temporary quota
23 allocation shall be equal to the pounds of
24 seed peanuts planted on the farm, as may

1 *be adjusted under regulations prescribed by*
2 *the Secretary.*

3 “(iii) *ADDITIONAL QUOTA.—The tem-*
4 *porary allocation of quota pounds under*
5 *this paragraph shall be in addition to the*
6 *farm poundage quota otherwise established*
7 *under this subsection and shall be credited,*
8 *for the applicable marketing year only, in*
9 *total to the producer of the peanuts on the*
10 *farm in a manner prescribed by the Sec-*
11 *retary.*

12 “(iv) *EFFECT OF OTHER REQUIRE-*
13 *MENTS.—Nothing in this section alters or*
14 *changes the requirements regarding the use*
15 *of quota and additional peanuts established*
16 *by section 358e(b).”.*

17 (4) *UNDERMARKETINGS.—Part VI of subtitle B*
18 *of title III of the Act is amended—*

19 (A) *in section 358–1(b) (7 U.S.C. 1358–*
20 *1(b))—*

21 (i) *in paragraph (1)(B), by striking*
22 *“including—” and clauses (i) and (ii) and*
23 *inserting “including any increases resulting*
24 *from the allocation of quotas voluntarily re-*
25 *leased for 1 year under paragraph (7).”;*

1 (ii) in paragraph (3)(B), by striking
2 “include—” and clauses (i) and (ii) and
3 inserting “include any increase resulting
4 from the allocation of quotas voluntarily re-
5 leased for 1 year under paragraph (7).”;
6 and

7 (iii) by striking paragraphs (8) and
8 (9); and

9 (B) in section 358b(a) (7 U.S.C.
10 1358b(a))—

11 (i) in paragraph (1), by striking “(in-
12 cluding any applicable under marketings)”
13 both places it appears;

14 (ii) in paragraph (1)(A), by striking
15 “of undermarketings and”;

16 (iii) in paragraph (2), by striking
17 “(including any applicable under market-
18 ings)”;

19 (iv) in paragraph (3), by striking
20 “(including any applicable
21 undermarketings)”.

22 (5) *DISASTER TRANSFERS*.—Section 358–1(b) of
23 the Act (7 U.S.C. 1358–1(b)), as amended by para-
24 graph (4)(A)(iii), is further amended by adding at
25 the end the following:

1 “(8) *DISASTER TRANSFERS.*—

2 “(A) *IN GENERAL.*—*Except as provided in*
3 *subparagraph (B), additional peanuts produced*
4 *on a farm from which the quota poundage was*
5 *not harvested and marketed because of drought,*
6 *flood, or any other natural disaster, or any other*
7 *condition beyond the control of the producer,*
8 *may be transferred to the quota loan pool for*
9 *pricing purposes on such basis as the Secretary*
10 *shall by regulation provide.*

11 “(B) *LIMITATION.*—*The poundage of pea-*
12 *nuts transferred under subparagraph (A) shall*
13 *not exceed the difference between—*

14 “(i) *the total quantity of peanuts meet-*
15 *ing quality requirements for domestic edible*
16 *use, as determined by the Secretary, mar-*
17 *keted from the farm; and*

18 “(ii) *the total farm poundage quota,*
19 *excluding quota pounds transferred to the*
20 *farm in the fall.*

21 “(C) *SUPPORT RATE.*—*Peanuts transferred*
22 *under this paragraph shall be supported at not*
23 *more than 70 percent of the quota support rate*
24 *for the marketing years in which the transfers*
25 *occur. The transfers for a farm shall not exceed*

1 25 percent of the total farm quota pounds, ex-
2 cluding pounds transferred in the fall.”.

3 **SEC. 1107. SUGAR PROGRAM.**

4 (a) *SUGARCANE*.—The Secretary shall make loans
5 available to processors of domestically grown sugarcane at
6 a rate equal to 18 cents per pound for raw cane sugar.

7 (b) *SUGAR BEETS*.—The Secretary shall make loans
8 available to processors of domestically grown sugar beets at
9 a rate equal to 22.9 cents per pound for refined beet sugar.

10 (c) *TERM OF LOANS*.—

11 (1) *IN GENERAL*.—Loans under this section dur-
12 ing any fiscal year shall be made available not earlier
13 than the beginning of the fiscal year and shall mature
14 at the earlier of—

15 (A) the end of 9 months; or

16 (B) the end of the fiscal year.

17 (2) *SUPPLEMENTAL LOANS*.—In the case of loans
18 made under this section in the last 3 months of a fis-
19 cal year, the processor may repledge the sugar as col-
20 lateral for a second loan in the subsequent fiscal year,
21 except that the second loan shall—

22 (A) be made at the loan rate in effect at the
23 time the second loan is made; and

24 (B) mature in 9 months less the quantity of
25 time that the first loan was in effect.

1 (d) *LOAN TYPE; PROCESSOR ASSURANCES.*—

2 (1) *RECOURSE LOANS.*—Subject to paragraph
3 (2), the Secretary shall carry out this section through
4 the use of recourse loans.

5 (2) *NONRECOURSE LOANS.*—During any fiscal
6 year in which the tariff rate quota for imports of
7 sugar into the United States is established at, or is
8 increased to, a level in excess of 1,500,000 short tons
9 raw value, the Secretary shall carry out this section
10 by making available nonrecourse loans. Any recourse
11 loan previously made available by the Secretary
12 under this section during the fiscal year shall be
13 changed by the Secretary into a nonrecourse loan.

14 (3) *PROCESSOR ASSURANCES.*—If the Secretary
15 is required under paragraph (2) to make nonrecourse
16 loans available during a fiscal year or to change re-
17 course loans into nonrecourse loans, the Secretary
18 shall obtain from each processor that receives a loan
19 under this section such assurances as the Secretary
20 considers adequate to ensure that the processor will
21 provide payments to producers that are proportional
22 to the value of the loan received by the processor for
23 sugar beets and sugarcane delivered by producers
24 served by the processor. The Secretary may establish

1 *appropriate minimum payments for purposes of this*
2 *paragraph.*

3 (e) *MARKETING ASSESSMENT.*—

4 (1) *SUGARCANE.*—*Effective for marketings of*
5 *raw cane sugar during the 1996 through 2003 fiscal*
6 *years, the first processor of sugarcane shall remit to*
7 *the Commodity Credit Corporation a nonrefundable*
8 *marketing assessment in an amount equal to—*

9 (A) *in the case of marketings during fiscal*
10 *year 1996, 1.1 percent of the loan rate estab-*
11 *lished under subsection (a) per pound of raw*
12 *cane sugar, processed by the processor from do-*
13 *mestically produced sugarcane or sugarcane mo-*
14 *lasses, that has been marketed (including the*
15 *transfer or delivery of the sugar to a refinery for*
16 *further processing or marketing); and*

17 (B) *in the case of marketings during each*
18 *of fiscal years 1997 through 2003, 1.375 percent*
19 *of the loan rate established under subsection (a)*
20 *per pound of raw cane sugar, processed by the*
21 *processor from domestically produced sugarcane*
22 *or sugarcane molasses, that has been marketed*
23 *(including the transfer or delivery of the sugar*
24 *to a refinery for further processing or market-*
25 *ing).*

1 (2) *SUGAR BEETS.*—*Effective for marketings of*
2 *beet sugar during the 1996 through 2003 fiscal years,*
3 *the first processor of sugar beets shall remit to the*
4 *Commodity Credit Corporation a nonrefundable mar-*
5 *keting assessment in an amount equal to—*

6 (A) *in the case of marketings during fiscal*
7 *year 1996, 1.1794 percent of the loan rate estab-*
8 *lished under subsection (a) per pound of beet*
9 *sugar, processed by the processor from domesti-*
10 *cally produced sugar beets or sugar beet molas-*
11 *ses, that has been marketed; and*

12 (B) *in the case of marketings during each*
13 *of fiscal years 1997 through 2003, 1.47425 per-*
14 *cent of the loan rate established under subsection*
15 *(a) per pound of beet sugar, processed by the*
16 *processor from domestically produced sugar beets*
17 *or sugar beet molasses, that has been marketed.*

18 (3) *COLLECTION.*—

19 (A) *TIMING.*—*A marketing assessment re-*
20 *quired under this subsection shall be collected on*
21 *a monthly basis and shall be remitted to the*
22 *Commodity Credit Corporation not later than 30*
23 *days after the end of each month. Any cane*
24 *sugar or beet sugar processed during a fiscal*
25 *year that has not been marketed by September*

1 30 of the year shall be subject to assessment on
2 that date. The sugar shall not be subject to a sec-
3 ond assessment at the time that it is marketed.

4 (B) MANNER.—Subject to subparagraph
5 (A), marketing assessments shall be collected
6 under this subsection in the manner prescribed
7 by the Secretary and shall be nonrefundable.

8 (4) PENALTIES.—If any person fails to remit the
9 assessment required by this subsection or fails to com-
10 ply with such requirements for recordkeeping or other-
11 wise as are required by the Secretary to carry out
12 this subsection, the person shall be liable to the Sec-
13 retary for a civil penalty up to an amount deter-
14 mined by multiplying—

15 (A) the quantity of cane sugar or beet sugar
16 involved in the violation; by

17 (B) the loan rate for the applicable crop of
18 sugarcane or sugar beets.

19 (5) ENFORCEMENT.—The Secretary may enforce
20 this subsection in a court of the United States.

21 (f) FORFEITURE PENALTY.—

22 (1) IN GENERAL.—A penalty shall be assessed on
23 the forfeiture of any sugar pledged as collateral for a
24 nonrecourse loan under this section.

1 (2) *SUGARCANE.*—*The penalty for sugarcane*
2 *shall be 1 cent per pound.*

3 (3) *SUGAR BEETS.*—*The penalty for sugar beets*
4 *shall bear the same relation to the penalty for sugar-*
5 *cane as the marketing assessment for sugar beets bears*
6 *to the marketing assessment for sugarcane.*

7 (4) *EFFECT OF FORFEITURE.*—*Any payments*
8 *owed producers by a processor that forfeits of any*
9 *sugar pledged as collateral for a nonrecourse loan*
10 *shall be reduced in proportion to the loan forfeiture*
11 *penalty incurred by the processor.*

12 (i) *INFORMATION REPORTING.*—

13 (1) *DUTY OF PROCESSORS AND REFINERS TO RE-*
14 *PORT.*—*A sugarcane processor, cane sugar refiner,*
15 *and sugar beet processor shall furnish the Secretary,*
16 *on a monthly basis, such information as the Secretary*
17 *may require to administer sugar programs, including*
18 *the quantity of purchases of sugarcane, sugar beets,*
19 *and sugar, and production, importation, distribution,*
20 *and stock levels of sugar.*

21 (2) *PENALTY.*—*Any person willfully failing or*
22 *refusing to furnish the information, or furnishing*
23 *willfully any false information, shall be subject to a*
24 *civil penalty of not more than \$10,000 for each such*
25 *violation.*

1 (3) *MONTHLY REPORTS.*—*Taking into consider-*
2 *ation the information received under paragraph (1),*
3 *the Secretary shall publish on a monthly basis com-*
4 *posite data on production, imports, distribution, and*
5 *stock levels of sugar.*

6 (h) *MARKETING ALLOTMENTS.*—*Part VII of subtitle B*
7 *of title III of the Agricultural Adjustment Act of 1938 (7*
8 *U.S.C. 1359aa et seq.) is repealed.*

9 (i) *CROPS.*—*This section (other than subsection (h))*
10 *shall be effective only for the 1996 through 2002 crops of*
11 *sugar beets and sugarcane.*

12 **SEC. 1108. ADMINISTRATION.**

13 (a) *COMMODITY CREDIT CORPORATION.*—

14 (1) *USE OF CORPORATION.*—*The Secretary shall*
15 *carry out this subtitle through the Commodity Credit*
16 *Corporation.*

17 (2) *SALARIES AND EXPENSES.*—*No funds of the*
18 *Corporation shall be used for any salary or expense*
19 *of any officer or employee of the Department of Agri-*
20 *culture in connection with the administration of pay-*
21 *ments or loans under this subtitle.*

22 (b) *ADMINISTRATION.*—*Title IV of the Agricultural*
23 *Adjustment Act of 1938 (as added by section 1109) shall*
24 *apply to the administration of this subtitle.*

1 (c) *REGULATIONS.*—*The Secretary may issue such reg-*
2 *ulations as the Secretary determines necessary to carry out*
3 *this subtitle.*

4 ***SEC. 1109. ELIMINATION OF PERMANENT PRICE SUPPORT***
5 ***AUTHORITY.***

6 (a) *AGRICULTURAL ADJUSTMENT ACT OF 1938.*—*The*
7 *Agricultural Adjustment Act of 1938 is amended—*

8 (1) *in title III—*

9 (A) *in subtitle B—*

10 (i) *by striking parts II through V (7*
11 *U.S.C. 1326–1351); and*

12 (ii) *in part VI, by striking sections*
13 *358, 358a, and 358d (7 U.S.C. 1358, 1358a,*
14 *and 1359); and*

15 (B) *by striking subtitle D (7 U.S.C. 1379a–*
16 *1379j); and*

17 (2) *by striking title IV (7 U.S.C. 1401–1407).*

18 (b) *AGRICULTURAL ACT OF 1949.*—

19 (1) *TRANSFER OF CERTAIN SECTIONS.*—*The Ag-*
20 *ricultural Act of 1949 is amended—*

21 (A) *by transferring sections 106, 106A, and*
22 *106B (7 U.S.C. 1445, 1445–1, 1445–2) to appear*
23 *after section 314A of the Agricultural Adjust-*
24 *ment Act of 1938 (7 U.S.C. 1314–1) and redesignig-*

1 nating the transferred sections as sections 315,
2 315A, and 315B, respectively;

3 (B) by transferring sections 111, 201(c),
4 and 204 (7 U.S.C. 1445f, 1446(c), 1446e) to ap-
5 pear after section 304 of the Agricultural Adjust-
6 ment Act of 1938 (7 U.S.C. 1304) and redesignig-
7 nating the transferred sections as sections 305,
8 306, and 307, respectively;

9 (C) by transferring sections 403, 405, 407,
10 412, and 422 (7 U.S.C. 1423, 1425, 1427, 1429,
11 1431a) to appear after section 393 (7 U.S.C.
12 1393) and redesignating the transferred sections
13 as sections 411, 412, 413, 414, and 415, respec-
14 tively; and

15 (D) by transferring section 416 (7 U.S.C.
16 1431) to appear after section 415 of the Agricul-
17 tural Adjustment Act of 1938 (as transferred and
18 redesignated by subparagraph (C)).

19 (2) *REPEAL.*—*The Agricultural Act of 1949 (7*
20 *U.S.C. 1421 et seq.) (as amended by paragraph (1))*
21 *is repealed.*

22 (c) *CONFORMING AMENDMENTS.*—*The Agricultural*
23 *Adjustment Act of 1938 is amended—*

1 (b) *LIABILITY.*—A provision of this subtitle or an
 2 amendment made by this subtitle shall not affect the liabil-
 3 ity of any person under any provision of law as in effect
 4 before the date of the enactment of this Act.

5 **Subtitle B—Conservation**

6 **SEC. 1201. CONSERVATION.**

7 (a) *FUNDING.*—Subtitle E of title XII of the Food Se-
 8 curity Act of 1985 (16 U.S.C. 3841 et seq.) is amended to
 9 read as follows:

10 **“Subtitle E—Funding**

11 **“SEC. 1241. FUNDING.**

12 “(a) *MANDATORY EXPENSES.*—For each of fiscal years
 13 1996 through 2002, the Secretary shall use the funds of the
 14 Commodity Credit Corporation to carry out the programs
 15 authorized by—

16 “(1) subchapter B of chapter 1 of subtitle D (in-
 17 cluding contracts extended by the Secretary pursuant
 18 to section 1437 of the Food, Agriculture, Conserva-
 19 tion, and Trade Act of 1990 (Public Law 101–624; 16
 20 U.S.C. 3831 note));

21 “(2) subchapter C of chapter 1 of subtitle D; and

22 “(3) chapter 4 of subtitle D.

23 “(b) *LIVESTOCK ENVIRONMENTAL ASSISTANCE PRO-*
 24 *GRAM.*—For each of fiscal years 1996 through 2002,
 25 \$100,000,000 of the funds of the Commodity Credit Cor-

1 *poration shall be available for providing technical assist-*
 2 *ance, cost-sharing payments, and incentive payments for*
 3 *practices relating to livestock production under the livestock*
 4 *environmental assistance program under chapter 4 of sub-*
 5 *title D.”.*

6 (b) *LIVESTOCK ENVIRONMENTAL ASSISTANCE PRO-*
 7 *GRAM.—To carry out the programs funded under the*
 8 *amendment made by subsection (a), subtitle D of title XII*
 9 *of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.)*
 10 *is amended by adding at the end the following:*

11 **“CHAPTER 4—LIVESTOCK**
 12 **ENVIRONMENTAL ASSISTANCE PROGRAM**

13 **“SEC. 1240. DEFINITIONS.**

14 *“In this chapter:*

15 *“(1) LAND MANAGEMENT PRACTICE.—The term*
 16 *‘land management practice’ means a site-specific nu-*
 17 *trient or manure management, irrigation manage-*
 18 *ment, tillage or residue management, grazing man-*
 19 *agement, or other land management practice that the*
 20 *Secretary determines is needed to protect, in the most*
 21 *cost effective manner, water, soil, or related resources*
 22 *from degradation due to livestock production.*

23 *“(2) LARGE CONFINED LIVESTOCK OPERATION.—*
 24 *The term ‘large confined livestock operation’ means*
 25 *an operation that—*

1 “(A) is a confined animal feeding oper-
2 ation; and

3 “(B) has more than—

4 “(i) 55 mature dairy cattle;

5 “(ii) 10,000 beef cattle;

6 “(iii) 30,000 laying hens or broilers (if
7 the facility has continuous overflow water-
8 ing);

9 “(iv) 100,000 laying hens or broilers
10 (if the facility has a liquid manure system);

11 “(v) 55,000 turkeys;

12 “(vi) 15,000 swine; or

13 “(vii) 10,000 sheep or lambs.

14 “(3) *LIVESTOCK*.—The term ‘livestock’ means
15 dairy cows, beef cattle, laying hens, broilers, turkeys,
16 swine, sheep, lambs, and such other animals as deter-
17 mined by the Secretary.

18 “(4) *OPERATOR*.—The term ‘operator’ means a
19 person who is engaged in livestock production (as de-
20 fined by the Secretary).

21 “(5) *STRUCTURAL PRACTICE*.—The term ‘struc-
22 tural practice’ means the establishment of an animal
23 waste management facility, terrace, grassed water-
24 way, contour grass strip, filterstrip, or other struc-
25 tural practice that the Secretary determines is needed

1 to protect, in the most cost effective manner, water,
2 soil, or related resources from degradation due to live-
3 stock production.

4 **“SEC. 1240A. ESTABLISHMENT AND ADMINISTRATION OF**
5 **LIVESTOCK ENVIRONMENTAL ASSISTANCE**
6 **PROGRAM.**

7 “(a) *ESTABLISHMENT.*—

8 “(1) *IN GENERAL.*—During the 1996 through
9 2002 fiscal years, the Secretary shall provide tech-
10 nical assistance, cost-sharing payments, and incentive
11 payments to operators who enter into contracts with
12 the Secretary, through a livestock environmental as-
13 sistance program.

14 “(2) *ELIGIBLE PRACTICES.*—

15 “(A) *STRUCTURAL PRACTICES.*—An opera-
16 tor who implements a structural practice shall be
17 eligible for technical assistance or cost-sharing
18 payments, or both.

19 “(B) *LAND MANAGEMENT PRACTICES.*—An
20 operator who performs a land management prac-
21 tice shall be eligible for technical assistance or
22 incentive payments, or both.

23 “(3) *ELIGIBLE LAND.*—Assistance under this
24 chapter may be provided with respect to land that is
25 used for livestock production and on which a serious

1 *threat to water, soil, or related resources exists, as de-*
2 *termined by the Secretary, by reason of the soil types,*
3 *terrain, climatic, soil, topographic, flood, or saline*
4 *characteristics, or other factors or natural hazards.*

5 “(4) *SELECTION CRITERIA.—In providing tech-*
6 *nical assistance, cost-sharing payments, and incentive*
7 *payments to operators in a region, watershed, or con-*
8 *servation priority area in which an agricultural op-*
9 *eration is located, the Secretary shall consider—*

10 “(A) *the significance of the water, soil, and*
11 *related natural resource problems; and*

12 “(B) *the maximization of environmental*
13 *benefits per dollar expended.*

14 “(b) *APPLICATION AND TERM.—*

15 “(1) *IN GENERAL.—A contract between an oper-*
16 *ator and the Secretary under this chapter may—*

17 “(A) *apply to 1 or more structural practices*
18 *or 1 or more land management practices, or*
19 *both; and*

20 “(B) *have a term of not less than 5, nor*
21 *more than 10, years, as determined appropriate*
22 *by the Secretary, depending on the practice or*
23 *practices that are the basis of the contract.*

24 “(2) *DUTIES OF OPERATORS AND SECRETARY.—*

25 *To receive cost sharing or incentive payments, or*

1 *technical assistance, participating operators shall*
2 *comply with all terms and conditions of the contract*
3 *and a plan, as established by the Secretary.*

4 “(c) *STRUCTURAL PRACTICES.*—

5 “(1) *COMPETITIVE OFFER.*—*The Secretary shall*
6 *administer a competitive offer system for operators*
7 *proposing to receive cost-sharing payments in ex-*
8 *change for the implementation of 1 or more structural*
9 *practices by the operator. The competitive offer system*
10 *shall consist of—*

11 “(A) *the submission of a competitive offer*
12 *by the operator in such manner as the Secretary*
13 *may prescribe; and*

14 “(B) *evaluation of the offer in light of the*
15 *selection criteria established under subsection*
16 *(a)(4) and the projected cost of the proposal, as*
17 *determined by the Secretary.*

18 “(2) *CONCURRENCE OF OWNER.*—*If the operator*
19 *making an offer to implement a structural practice is*
20 *a tenant of the land involved in agricultural produc-*
21 *tion, for the offer to be acceptable, the operator shall*
22 *obtain the concurrence of the owner of the land with*
23 *respect to the offer.*

24 “(d) *LAND MANAGEMENT PRACTICES.*—*The Secretary*
25 *shall establish an application and evaluation process for*

1 *awarding technical assistance or incentive payments, or*
2 *both, to an operator in exchange for the performance of 1*
3 *or more land management practices by the operator.*

4 “(e) *COST-SHARING, INCENTIVE PAYMENTS, AND*
5 *TECHNICAL ASSISTANCE.—*

6 “(1) *COST-SHARING PAYMENTS.—*

7 “(A) *IN GENERAL.—The Federal share of*
8 *cost-sharing payments to an operator proposing*
9 *to implement 1 or more structural practices shall*
10 *not be greater than 75 percent of the projected*
11 *cost of each practice, as determined by the Sec-*
12 *retary, taking into consideration any payment*
13 *received by the operator from a State or local*
14 *government.*

15 “(B) *LIMITATION.—An operator of a large*
16 *confined livestock operation shall not be eligible*
17 *for cost-sharing payments to construct an ani-*
18 *mal waste management facility.*

19 “(C) *OTHER PAYMENTS.—An operator shall*
20 *not be eligible for cost-sharing payments for*
21 *structural practices on eligible land under this*
22 *chapter if the operator receives cost-sharing pay-*
23 *ments or other benefits for the same land under*
24 *chapter 1, 2, or 3.*

1 “(2) *INCENTIVE PAYMENTS.*—*The Secretary shall*
2 *make incentive payments in an amount and at a rate*
3 *determined by the Secretary to be necessary to encour-*
4 *age an operator to perform 1 or more land manage-*
5 *ment practices.*

6 “(3) *TECHNICAL ASSISTANCE.*—

7 “(A) *FUNDING.*—*The Secretary shall allo-*
8 *cate funding under this chapter for the provision*
9 *of technical assistance according to the purpose*
10 *and projected cost for which the technical assist-*
11 *ance is provided for a fiscal year. The allocated*
12 *amount may vary according to the type of exper-*
13 *tise required, quantity of time involved, and*
14 *other factors as determined appropriate by the*
15 *Secretary. Funding shall not exceed the projected*
16 *cost to the Secretary of the technical assistance*
17 *provided for a fiscal year.*

18 “(B) *OTHER AUTHORITIES.*—*The receipt of*
19 *technical assistance under this chapter shall not*
20 *affect the eligibility of the operator to receive*
21 *technical assistance under other authorities of*
22 *law available to the Secretary.*

23 “(f) *LIMITATION ON PAYMENTS.*—

1 “(1) *IN GENERAL.*—*The total amount of cost-*
2 *sharing and incentive payments paid to a person*
3 *under this chapter may not exceed—*

4 “(A) \$10,000 for any fiscal year; or

5 “(B) \$50,000 for any multiyear contract.

6 “(2) *REGULATIONS.*—*The Secretary shall issue*
7 *regulations that are consistent with section 1001 for*
8 *the purpose of—*

9 “(A) *defining the term ‘person’ as used in*
10 *paragraph (1); and*

11 “(B) *prescribing such rules as the Secretary*
12 *determines necessary to ensure a fair and rea-*
13 *sonable application of the limitations established*
14 *under this subsection.*

15 “(g) *REGULATIONS.*—*Not later than 180 days after the*
16 *effective date of this subsection, the Secretary shall issue reg-*
17 *ulations to implement the livestock environmental assist-*
18 *ance program established under this chapter.”.*

19 (c) *CONFORMING AMENDMENTS.*—

20 (1) *COMMODITY CREDIT CORPORATION CHARTER*
21 *ACT.*—*Section 5(g) of the Commodity Credit Corpora-*
22 *tion Charter Act (15 U.S.C. 714c(g)) is amended to*
23 *read as follows:*

24 “(g) *Carry out conservation functions and programs.”.*

25 (2) *WETLANDS RESERVE PROGRAM.*—

1 (A) *IN GENERAL.*—Section 1237 of the Food
2 Security Act of 1985 (16 U.S.C. 3837) is amend-
3 ed—

4 (i) in subsection (b)(2)—

5 (I) by striking “not less” and in-
6 serting “not more”; and

7 (II) by striking “2000” and in-
8 serting “2002”; and

9 (ii) in subsection (c), by striking
10 “2000” and inserting “2002”.

11 (B) *LENGTH OF EASEMENT.*—Section
12 1237A(e) of the Food Security Act of 1985 (16
13 U.S.C. 3837a(e)) is amended by striking para-
14 graph (2) and inserting the following:

15 “(2) shall be for 15 years, but in no case shall
16 be a permanent easement.”.

17 (3) *CONSERVATION RESERVE PROGRAM.*—

18 (A) *IN GENERAL.*—Section 1231(d) of the
19 Food Security Act of 1985 (16 U.S.C. 3831(d))
20 is amended by striking “total of” and all that
21 follows through the period at the end of the sub-
22 section and inserting “total of 36,400,000
23 acres.”.

24 (B) *OPTIONAL CONTRACT TERMINATION BY*
25 *PRODUCERS.*—Section 1235 of the Food Security

1 *Act of 1985 (16 U.S.C. 3835) is amended by*
2 *adding at the end the following:*

3 “(e) *TERMINATION BY OWNER OR OPERATOR.*—

4 “(1) *NOTICE OF TERMINATION.*—*An owner or*
5 *operator of land subject to a contract entered into*
6 *under this subchapter may terminate the contract by*
7 *submitting to the Secretary written notice of the in-*
8 *tention of the owner or operator to terminate the con-*
9 *tract.*

10 “(2) *EFFECTIVE DATE.*—*The contract termi-*
11 *nation shall take effect 60 days after the date on*
12 *which the owner or operator submits the written no-*
13 *tice under paragraph (1).*

14 “(3) *PRORATED RENTAL PAYMENT.*—*If a con-*
15 *tract entered into under this subchapter is terminated*
16 *under this subsection before the end of the fiscal year*
17 *for which a rental payment is due, the Secretary shall*
18 *provide a prorated rental payment covering the por-*
19 *tion of the fiscal year during which the contract was*
20 *in effect.*

21 “(4) *RENEWED ENROLLMENT.*—*The termination*
22 *of a contract entered into under this subchapter shall*
23 *not affect the ability of the owner or operator who re-*
24 *quested the termination to submit a subsequent bid to*

1 enroll the land that was subject to the contract into
2 the conservation reserve.

3 “(5) *CONSERVATION REQUIREMENTS.*—If land
4 that was subject to a contract is returned to produc-
5 tion of an agricultural commodity, the conservation
6 requirements under subtitles B and C shall apply to
7 the use of the land to the extent that the requirements
8 are similar to those requirements imposed on other
9 similar lands in the area, except that the require-
10 ments may not be more onerous than the requirements
11 imposed on other lands.

12 “(6) *REPAYMENT OF COST SHARE.*—A person
13 who terminates a contract entered into under this
14 subchapter within less than 3 years after entering
15 into the contract shall reimburse the Secretary for
16 any cost share assistance provided under the con-
17 tract.”.

18 (C) *LIMITATION.*—Notwithstanding any
19 other provision of law, no new acres shall be en-
20 rolled in the conservation reserve program estab-
21 lished under subchapter B of chapter 1 of subtitle
22 D of title XII of the Food Security Act of 1985
23 (16 U.S.C. 3831 et seq.) in calendar year 1997.

1 ***Subtitle C—Agricultural Promotion***
2 ***and Export Programs***

3 ***SEC. 1301. MARKET PROMOTION PROGRAM.***

4 *Effective October 1, 1995, section 211(c)(1) of the Agri-*
5 *cultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amend-*
6 *ed—*

7 *(1) by striking “and” after “1991 through*
8 *1993,”; and*

9 *(2) by striking “through 1997,” and inserting*
10 *“through 1995, and not more than \$100,000,000 for*
11 *each of fiscal years 1996 through 2002.”.*

12 ***SEC. 1302. EXPORT ENHANCEMENT PROGRAM.***

13 *Effective October 1, 1995, section 301(e)(1) of the Agri-*
14 *cultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amend-*
15 *ed to read as follows:*

16 *“(1) IN GENERAL.—The Commodity Credit Cor-*
17 *poration shall make available to carry out the pro-*
18 *gram established under this section not more than—*

19 *“(A) \$350,000,000 for fiscal year 1996;*

20 *“(B) \$350,000,000 for fiscal year 1997;*

21 *“(C) \$500,000,000 for fiscal year 1998;*

22 *“(D) \$550,000,000 for fiscal year 1999;*

23 *“(E) \$579,000,000 for fiscal year 2000;*

24 *“(F) \$478,000,000 for fiscal year 2001; and*

25 *“(G) \$478,000,000 for fiscal year 2002.”.*

1 ***Subtitle D—Miscellaneous***

2 ***SEC. 1401. CROP INSURANCE.***

3 (a) *CATASTROPHIC RISK PROTECTION.*—Section
4 *508(b) of the Federal Crop Insurance Act (7 U.S.C.*
5 *1508(b)) is amended—*

6 (1) *in paragraph (4), by adding at the end the*
7 *following:*

8 “(C) *DELIVERY OF COVERAGE.*—

9 “(i) *IN GENERAL.*—*In full consultation*
10 *with approved insurance providers, the Sec-*
11 *retary may continue to offer catastrophic*
12 *risk protection in a State (or a portion of*
13 *a State) through local offices of the Depart-*
14 *ment if the Secretary determines that there*
15 *is an insufficient number of approved in-*
16 *surance providers operating in the State or*
17 *portion to adequately provide catastrophic*
18 *risk protection coverage to producers.*

19 “(ii) *COVERAGE BY APPROVED INSUR-*
20 *ANCE PROVIDERS.*—*To the extent that cata-*
21 *strophic risk protection coverage by ap-*
22 *proved insurance providers is sufficiently*
23 *available in a State as determined by the*
24 *Secretary, only approved insurance provid-*
25 *ers may provide the coverage in the State.*

1 “(iii) *CURRENT POLICIES.*—Subject to
2 *clause (ii), all catastrophic risk protection*
3 *policies written by local offices of the De-*
4 *partment shall be transferred (including all*
5 *fees collected for the crop year in which the*
6 *approved insurance provider will assume*
7 *the policies) to the approved insurance pro-*
8 *vider for performance of all sales, service,*
9 *and loss adjustment functions.”; and*

10 (2) *in paragraph (7), by striking subparagraph*
11 *(A) and inserting the following:*

12 “(A) *IN GENERAL.*—Effective for the spring-
13 *planted 1996 and subsequent crops, to be eligible*
14 *for any payment or loan under the Agricultural*
15 *Market Transition Act, the conservation reserve*
16 *program, or any benefit described in section 371*
17 *of the Consolidated Farm and Rural Develop-*
18 *ment Act (7 U.S.C. 2008f), a person shall—*

19 “(i) *obtain at least the catastrophic*
20 *level of insurance for each crop of economic*
21 *significance in which the person has an in-*
22 *terest; or*

23 “(ii) *provide a written waiver to the*
24 *Secretary that waives any eligibility for*

1 *emergency crop loss assistance in connection*
 2 *with the crop.”.*

3 (b) *COVERAGE OF SEED CROPS.—Section*
 4 *519(a)(2)(B) of the Act (7 U.S.C. 1519(a)(2)(B) is amended*
 5 *by inserting “seed crops,” after “turfgrass sod,”.*

6 ***SEC. 1402. COLLECTION AND USE OF AGRICULTURAL QUAR-***
 7 ***ANTINE AND INSPECTION FEES.***

8 *Subsection (a) of section 2509 of the Food, Agriculture,*
 9 *Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is*
 10 *amended to read as follows:*

11 *“(a) QUARANTINE AND INSPECTION FEES.—*

12 *“(1) FEES AUTHORIZED.—The Secretary of Ag-*
 13 *riculture may prescribe and collect fees sufficient—*

14 *“(A) to cover the cost of providing agricul-*
 15 *tural quarantine and inspection services in con-*
 16 *nection with the arrival at a port in the customs*
 17 *territory of the United States, or the*
 18 *preclearance or preinspection at a site outside*
 19 *the customs territory of the United States, of an*
 20 *international passenger, commercial vessel, com-*
 21 *mmercial aircraft, commercial truck, or railroad*
 22 *car;*

23 *“(B) to cover the cost of administering this*
 24 *subsection; and*

1 “(C) through fiscal year 2002, to maintain
2 a reasonable balance in the Agricultural Quar-
3 antine Inspection User Fee Account established
4 under paragraph (5).

5 “(2) *LIMITATION.*—In setting the fees under
6 paragraph (1), the Secretary shall ensure that the
7 amount of the fees are commensurate with the costs of
8 agricultural quarantine and inspection services with
9 respect to the class of persons or entities paying the
10 fees. The costs of the services with respect to pas-
11 sengers as a class includes the costs of related inspec-
12 tions of the aircraft or other vehicle.

13 “(3) *STATUS OF FEES.*—Fees collected under this
14 subsection by any person on behalf of the Secretary
15 are held in trust for the United States and shall be
16 remitted to the Secretary in such manner and at such
17 times as the Secretary may prescribe.

18 “(4) *LATE PAYMENT PENALTIES.*—If a person
19 subject to a fee under this subsection fails to pay the
20 fee when due, the Secretary shall assess a late pay-
21 ment penalty, and the overdue fees shall accrue inter-
22 est, as required by section 3717 of title 31, United
23 States Code.

24 “(5) *AGRICULTURAL QUARANTINE INSPECTION*
25 *USER FEE ACCOUNT.*—

1 “(A) *ESTABLISHMENT.*—*There is estab-*
2 *lished in the Treasury of the United States a no-*
3 *year fund, to be known as the ‘Agricultural*
4 *Quarantine Inspection User Fee Account’, which*
5 *shall contain all of the fees collected under this*
6 *subsection and late payment penalties and inter-*
7 *est charges collected under paragraph (4)*
8 *through fiscal year 2002.*

9 “(B) *USE OF ACCOUNT.*—*For each of the*
10 *fiscal years 1996 through 2002, funds in the Ag-*
11 *ricultural Quarantine Inspection User Fee Ac-*
12 *count shall be available, in such amounts as are*
13 *provided in advance in appropriations Acts, to*
14 *cover the costs associated with the provision of*
15 *agricultural quarantine and inspection services*
16 *and the administration of this subsection.*
17 *Amounts made available under this subpara-*
18 *graph shall be available until expended.*

19 “(C) *EXCESS FEES.*—*Fees and other*
20 *amounts collected under this subsection in any of*
21 *the fiscal years 1996 through 2002 in excess of*
22 *\$100,000,000 shall be available for the purposes*
23 *specified in subparagraph (B) until expended,*
24 *without further appropriation.*

1 “(6) *USE OF AMOUNTS COLLECTED AFTER FIS-*
2 *CAL YEAR 2002.—After September 30, 2002, the unob-*
3 *ligated balance in the Agricultural Quarantine In-*
4 *spection User Fee Account and fees and other*
5 *amounts collected under this subsection shall be cred-*
6 *ited to the Department of Agriculture accounts that*
7 *incur the costs associated with the provision of agri-*
8 *cultural quarantine and inspection services and the*
9 *administration of this subsection. The fees and other*
10 *amounts shall remain available to the Secretary until*
11 *expended without fiscal year limitation.*

12 “(7) *STAFF YEARS.—The number of full-time*
13 *equivalent positions in the Department of Agriculture*
14 *attributable to the provision of agricultural quar-*
15 *antine and inspection services and the administration*
16 *of this subsection shall not be counted toward the lim-*
17 *itation on the total number of full-time equivalent po-*
18 *sitions in all agencies specified in section 5(b) of the*
19 *Federal Workforce Restructuring Act of 1994 (Public*
20 *Law 103–226; 5 U.S.C. 3101 note) or other limita-*
21 *tion on the total number of full-time equivalent posi-*
22 *tions.”.*

1 **SEC. 1403. COMMODITY CREDIT CORPORATION INTEREST**2 **RATE.**

3 *Notwithstanding any other provision of law, the*
 4 *monthly Commodity Credit Corporation interest rate appli-*
 5 *cable to loans provided for agricultural commodities by the*
 6 *Corporation shall be 100 basis points greater than the rate*
 7 *determined under the applicable interest rate formula in*
 8 *effect on October 1, 1995.*

9 **TITLE II—BANKING, HOUSING,**
 10 **AND RELATED PROVISIONS**

11 **SEC. 2001. TABLE OF CONTENTS.**

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

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

Sec. 2001. Table of contents.

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

Subtitle A—Financial Institutions

Sec. 2011. Special assessment to capitalize SAIF.

Sec. 2012. Financing Corporation assessments shared proportionally by all in-
sured depository institutions.

Sec. 2013. Merger of BIF and SAIF.

Sec. 2014. Creation of SAIF Special Reserve.

Sec. 2015. Refund of amounts in deposit insurance fund in excess of designated
reserve amount.

Sec. 2016. Assessment rates for SAIF members may not be less than assessment
rates for BIF members.

Sec. 2017. Assessments authorized only if needed to maintain the reserve ratio of
a deposit insurance fund.

Sec. 2018. Limitation on authority of Oversight Board to continue to employ
more than 18 officers and employees.

Sec. 2019. Definitions.

Subtitle B—Housing

Sec. 2051. Annual adjustment factors for operating costs only; restraint on rent
increases.

Sec. 2052. Foreclosure avoidance and borrower assistance.

1 **TITLE II—BANKING, HOUSING,**
2 **AND RELATED PROVISIONS**
3 **Subtitle A—Financial Institutions**

4 **SEC. 2011. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.**

5 (a) *IN GENERAL.*—*Except as provided in subsection*
6 *(f), the Board of Directors shall impose a special assessment*
7 *on the SAIF-assessable deposits of each insured depository*
8 *institution at a rate applicable to all such institutions that*
9 *the Board of Directors, in its sole discretion, determines*
10 *(after taking into account the adjustments described in sub-*
11 *sections (g) through (j)) will cause the Savings Association*
12 *Insurance Fund to achieve the designated reserve ratio on*
13 *the first business day of January 1996.*

14 (b) *FACTORS TO BE CONSIDERED.*—*In carrying out*
15 *subsection (a), the Board of Directors shall base its deter-*
16 *mination on—*

17 (1) *the monthly Savings Association Insurance*
18 *Fund balance most recently calculated;*

19 (2) *data on insured deposits reported in the most*
20 *recent reports of condition filed not later than 70*
21 *days before the date of enactment of this Act by in-*
22 *sured depository institutions; and*

23 (3) *any other factors that the Board of Directors*
24 *deems appropriate.*

1 (c) *DATE OF DETERMINATION.*—For purposes of sub-
2 section (a), the amount of the SAIF-assessable deposits of
3 an insured depository institution shall be determined as of
4 March 31, 1995.

5 (d) *DATE PAYMENT DUE.*—The special assessment im-
6 posed under this section shall be—

7 (1) due on the first business day of January
8 1996; and

9 (2) paid to the Corporation on the later of—

10 (A) the first business day of January 1996;

11 or

12 (B) such other date as the Corporation shall
13 prescribe, but not later than 60 days after the
14 date of enactment of this Act.

15 (e) *ASSESSMENT DEPOSITED IN SAIF.*—Notwith-
16 standing any other provision of law, the proceeds of the spe-
17 cial assessment imposed under this section shall be depos-
18 ited in the Savings Association Insurance Fund.

19 (f) *EXEMPTIONS FOR CERTAIN INSTITUTIONS.*—

20 (1) *EXEMPTION FOR WEAK INSTITUTIONS.*—The
21 Board of Directors may, by order, in its sole discre-
22 tion, exempt any insured depository institution that
23 the Board of Directors determines to be weak, from
24 paying the special assessment imposed under this sec-
25 tion if the Board of Directors determines that the ex-

1 *emption would reduce risk to the Savings Association*
2 *Insurance Fund.*

3 (2) *GUIDELINES REQUIRED.—Not later than 30*
4 *days after the date of enactment of this Act, the*
5 *Board of Directors shall prescribe guidelines setting*
6 *forth the criteria that the Board of Directors will use*
7 *in exempting institutions under paragraph (1). Such*
8 *guidelines shall be published in the Federal Register.*

9 (3) *EXEMPTION FOR CERTAIN NEWLY CHAR-*
10 *TERED AND OTHER DEFINED INSTITUTIONS.—*

11 (A) *IN GENERAL.—In addition to the insti-*
12 *tutions exempted from paying the special assess-*
13 *ment under paragraph (1), the Board of Direc-*
14 *tors shall exempt any insured depository institu-*
15 *tion from payment of the special assessment if*
16 *the institution—*

17 (i) *was in existence on October 1,*
18 *1995, and held no SAIF-assessable deposits*
19 *prior to January 1, 1993;*

20 (ii) *is a Federal savings bank which—*

21 (I) *was established de novo in*
22 *April 1994 in order to acquire the de-*
23 *posits of a savings association which*
24 *was in default or in danger of default;*
25 *and*

1 (ii) received minority interim
2 capital assistance from the Resolution
3 Trust Corporation under section
4 21A(w) of the Federal Home Loan
5 Bank Act in connection with the acqui-
6 sition of any such savings association;
7 or

8 (iii) is a savings association, the de-
9 posits of which are insured by the Savings
10 Association Insurance Fund, which—

11 (I) prior to January 1, 1987, was
12 chartered as a Federal savings bank
13 insured by the Federal Savings and
14 Loan Insurance Corporation for the
15 purpose of acquiring all or substan-
16 tially all of the assets and assuming all
17 or substantially all of the deposit li-
18 abilities of a national bank in a trans-
19 action consummated after July 1,
20 1986; and

21 (II) as of the date of that trans-
22 action, had assets of less than
23 \$150,000,000.

24 (B) DEFINITION.—For purposes of this
25 paragraph, an institution shall be deemed to

1 *have held SAIF-assessable deposits prior to Jan-*
2 *uary 1, 1993, if—*

3 *(i) it directly held SAIF-assessable in-*
4 *sured deposits prior to that date; or*

5 *(ii) it succeeded to, acquired, pur-*
6 *chased, or otherwise holds any SAIF-assess-*
7 *able deposits as of the date of enactment of*
8 *this Act that were SAIF-assessable deposits*
9 *prior to January 1, 1993.*

10 (4) *EXEMPT INSTITUTIONS REQUIRED TO PAY*
11 *ASSESSMENTS AT FORMER RATES.—*

12 (A) *PAYMENTS TO SAIF AND DIF.—Any in-*
13 *sured depository institution that the Board of*
14 *Directors exempts under this subsection from*
15 *paying the special assessment imposed under this*
16 *section shall pay semiannual assessments—*

17 *(i) during calendar years 1996 and*
18 *1997, into the Savings Association Insur-*
19 *ance Fund, based on SAIF-assessable depos-*
20 *its of that institution, at assessment rates*
21 *calculated under the schedule in effect for*
22 *Savings Association Insurance Fund mem-*
23 *bers on June 30, 1995; and*

24 *(ii) during calendar years 1998 and*
25 *1999—*

1 (I) into the Deposit Insurance
2 Fund, based on SAIF-assessable depos-
3 its of that institution as of December
4 31, 1997, at assessment rates cal-
5 culated under the schedule in effect for
6 Savings Association Insurance Fund
7 members on June 30, 1995; or

8 (II) in accordance with clause (i),
9 if the Bank Insurance Fund and the
10 Savings Association Insurance Fund
11 are not merged into the Deposit Insur-
12 ance Fund.

13 (B) *OPTIONAL PRO RATA PAYMENT OF SPE-*
14 *CIAL ASSESSMENT.*—This paragraph shall not
15 apply with respect to any insured depository in-
16 stitution (or successor insured depository institu-
17 tion) that has paid, during any calendar year
18 from 1997 through 1999, upon such terms as the
19 Corporation may announce, an amount equal to
20 the product of—

21 (i) 12.5 percent of the special assess-
22 ment that the institution would have been
23 required to pay under subsection (a), if the
24 Board of Directors had not exempted the in-
25 stitution; and

1 (ii) the number of full semiannual pe-
2 riods remaining between the date of the
3 payment and December 31, 1999.

4 (g) *SPECIAL ELECTION FOR CERTAIN INSTITUTIONS*
5 *FACING HARDSHIP AS A RESULT OF THE SPECIAL ASSESS-*
6 *MENT.*—

7 (1) *ELECTION AUTHORIZED.*—If—

8 (A) an insured depository institution, or
9 any depository institution holding company
10 which, directly or indirectly, controls such insti-
11 tution, is subject to terms or covenants in any
12 debt obligation or preferred stock outstanding on
13 September 13, 1995; and

14 (B) the payment of the special assessment
15 under subsection (a) would pose a significant
16 risk of causing such depository institution or
17 holding company to default or violate any such
18 term or covenant,

19 the depository institution may elect, with the ap-
20 proval of the Corporation, to pay such special assess-
21 ment in accordance with paragraphs (2) and (3) in
22 lieu of paying such assessment in the manner re-
23 quired under subsection (a).

24 (2) *1ST ASSESSMENT.*—An insured depository
25 institution which makes an election under paragraph

1 (1) shall pay an assessment of 50 percent of the
2 amount of the special assessment that would otherwise
3 apply under subsection (a), by the date on which such
4 special assessment is otherwise due under subsection
5 (d).

6 (3) 2D ASSESSMENT.—An insured depository in-
7 stitution which makes an election under paragraph
8 (1) shall pay a 2d assessment, by the date established
9 by the Board of Directors in accordance with para-
10 graph (4), in an amount equal to the product of 51
11 percent of the rate determined by the Board of Direc-
12 tors under subsection (a) for determining the amount
13 of the special assessment and the SAIF-assessable de-
14 posits of the institution on March 31, 1996, or such
15 other date in calendar year 1996 as the Board of Di-
16 rectors determines to be appropriate.

17 (4) DUE DATE OF 2D ASSESSMENT.—The date es-
18 tablished by the Board of Directors for the payment
19 of the assessment under paragraph (3) by a deposi-
20 tory institution shall be the earliest practicable date
21 which the Board of Directors determines to be appro-
22 priate, which is at least 15 days after the date used
23 by the Board of Directors under paragraph (3).

24 (5) SUPPLEMENTAL SPECIAL ASSESSMENT.—An
25 insured depository institution which makes an elec-

1 *tion under paragraph (1) shall pay a supplemental*
2 *special assessment, at the same time the payment*
3 *under paragraph (3) is made, in an amount equal to*
4 *the product of—*

5 *(A) 50 percent of the rate determined by the*
6 *Board of Directors under subsection (a) for de-*
7 *termining the amount of the special assessment;*
8 *and*

9 *(B) 95 percent of the amount by which the*
10 *SAIF-assessable deposits used by the Board of*
11 *Directors for determining the amount of the 1st*
12 *assessment under paragraph (2) exceeds, if any,*
13 *the SAIF-assessable deposits used by the Board*
14 *for determining the amount of the 2d assessment*
15 *under paragraph (3).*

16 *(h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CER-*
17 *TAIN BANK INSURANCE FUND MEMBER BANKS.—*

18 *(1) IN GENERAL.—For purposes of computing*
19 *the special assessment imposed under this section with*
20 *respect to a Bank Insurance Fund member bank, the*
21 *amount of any deposits of any insured depository in-*
22 *stitution which section 5(d)(3) of the Federal Deposit*
23 *Insurance Act treats as insured by the Savings Asso-*
24 *ciation Insurance Fund shall be reduced by 20 per-*
25 *cent—*

1 (A) if the adjusted attributable deposit
2 amount of the Bank Insurance Fund member
3 bank is less than 50 percent of the total domestic
4 deposits of that member bank as of June 30,
5 1995; or

6 (B) if, as of June 30, 1995, the Bank Insur-
7 ance Fund member—

8 (i) had an adjusted attributable deposit
9 amount equal to less than 75 percent of the
10 total assessable deposits of that member
11 bank;

12 (ii) had total assessable deposits great-
13 er than \$5,000,000,000; and

14 (iii) was owned or controlled by a
15 bank holding company that owned or con-
16 trolled insured depository institutions hav-
17 ing an aggregate amount of deposits insured
18 or treated as insured by the Bank Insurance
19 Fund greater than the aggregate amount of
20 deposits insured or treated as insured by the
21 Savings Association Insurance Fund.

22 (2) *ADJUSTED ATTRIBUTABLE DEPOSIT*
23 *AMOUNT.*—For purposes of this subsection, the “ad-
24 justed attributable deposit amount” shall be deter-

1 *mined in accordance with section 5(d)(3)(C) of the*
2 *Federal Deposit Insurance Act.*

3 *(i) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE*
4 *DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND*
5 *MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit*
6 *Insurance Act (12 U.S.C. 1815(d)(3)) is amended—*

7 *(1) in subparagraph (C), by striking “The ad-*
8 *justed attributable deposit amount” and inserting*
9 *“Except as provided in subparagraph (K), the ad-*
10 *justed attributable deposit amount”;* and

11 *(2) by adding at the end the following new sub-*
12 *paragraph:*

13 *“(K) ADJUSTMENT OF ADJUSTED ATTRIB-*
14 *UTABLE DEPOSIT AMOUNT.—The amount deter-*
15 *mined under subparagraph (C)(i) for deposits*
16 *acquired by March 31, 1995, shall be reduced by*
17 *20 percent for purposes of computing the ad-*
18 *justed attributable deposit amount for the pay-*
19 *ment of any assessment for any semiannual pe-*
20 *riod after December 31, 1995 (other than the spe-*
21 *cial assessment imposed under section 2011(a) of*
22 *the Balanced Budget Act of 1995), for a Bank*
23 *Insurance Fund member bank that, as of June*
24 *30, 1995—*

1 “(i) had an adjusted attributable de-
2 posit amount that was less than 50 percent
3 of the total deposits of that member bank; or

4 “(ii)(I) had an adjusted attributable
5 deposit amount equal to less than 75 per-
6 cent of the total assessable deposits of that
7 member bank;

8 “(II) had total assessable deposits
9 greater than \$5,000,000,000; and

10 “(III) was owned or controlled by a
11 bank holding company that owned or con-
12 trolled insured depository institutions hav-
13 ing an aggregate amount of deposits insured
14 or treated as insured by the Bank Insurance
15 Fund greater than the aggregate amount of
16 deposits insured or treated as insured by the
17 Savings Association Insurance Fund.”.

18 (j) *ADJUSTMENT OF SPECIAL ASSESSMENT FOR CER-*
19 *TAIN SAVINGS ASSOCIATIONS.—*

20 (1) *SPECIAL ASSESSMENT REDUCTION.—For*
21 *purposes of computing the special assessment imposed*
22 *under this section, in the case of any converted asso-*
23 *ciation, the amount of any deposits of such associa-*
24 *tion which were insured by the Savings Association*

1 *Insurance Fund as of March 31, 1995, shall be re-*
2 *duced by 20 percent.*

3 (2) *CONVERTED ASSOCIATION.—For purposes of*
4 *this subsection, the term “converted association”*
5 *means—*

6 (A) *any Federal savings association—*

7 (i) *that is a member of the Savings As-*
8 *sociation Insurance Fund and that has de-*
9 *posits subject to assessment by that fund*
10 *which did not exceed \$4,000,000,000, as of*
11 *March 31, 1995; and*

12 (ii) *that had been, or is a successor by*
13 *merger, acquisition, or otherwise to an in-*
14 *stitution that had been, a State savings*
15 *bank, the deposits of which were insured by*
16 *the Federal Deposit Insurance Corporation*
17 *prior to August 9, 1989, that converted to*
18 *a Federal savings association pursuant to*
19 *section 5(i) of the Home Owners’ Loan Act*
20 *prior to January 1, 1985;*

21 (B) *a State depository institution that is a*
22 *member of the Savings Association Insurance*
23 *Fund that had been a State savings bank prior*
24 *to October 15, 1982, and was a Federal savings*
25 *association on August 9, 1989;*

1 (C) an insured bank that—

2 (i) was established *de novo* in order to
3 acquire the deposits of a savings association
4 in default or in danger of default;

5 (ii) did not open for business before ac-
6 quiring the deposits of such savings associa-
7 tion; and

8 (iii) was a Savings Association Insur-
9 ance Fund member as of the date of enact-
10 ment of this Act; and

11 (D) an insured bank that—

12 (i) resulted from a savings association
13 before December 19, 1991, in accordance
14 with section 5(d)(2)(G) of the Federal De-
15 posit Insurance Act; and

16 (ii) had an increase in its capital in
17 conjunction with the conversion in an
18 amount equal to more than 75 percent of
19 the capital of the institution on the day be-
20 fore the date of the conversion.

21 **SEC. 2012. FINANCING CORPORATION ASSESSMENTS**
22 **SHARED PROPORTIONALLY BY ALL INSURED**
23 **DEPOSITORY INSTITUTIONS.**

24 (a) *IN GENERAL.*—Section 21 of the Federal Home
25 Loan Bank Act (12 U.S.C. 1441) is amended—

1 (1) *in subsection (f)(2)—*

2 (A) *in the matter immediately preceding*
3 *subparagraph (A)—*

4 (i) *by striking “Savings Association*
5 *Insurance Fund member” and inserting*
6 *“insured depository institution”; and*

7 (ii) *by striking “members” and insert-*
8 *ing “institutions”; and*

9 (B) *by striking “, except that—” and all*
10 *that follows through the end of the paragraph*
11 *and inserting “, except that—*

12 *“(A) the Financing Corporation shall have*
13 *first priority to make the assessment; and*

14 *“(B) no limitation under clause (i) or (iii)*
15 *of section 7(b)(2)(A) of the Federal Deposit In-*
16 *surance Act shall apply for purposes of this*
17 *paragraph.”; and*

18 (2) *in subsection (k)—*

19 (A) *by striking “section—” and inserting*
20 *“section, the following definitions shall apply.”;*

21 (B) *by striking paragraph (1);*

22 (C) *by redesignating paragraphs (2) and*
23 *(3) as paragraphs (1) and (2), respectively; and*

24 (D) *by adding at the end the following new*
25 *paragraph:*

1 “(3) *INSURED DEPOSITORY INSTITUTION.*—*The*
2 *term ‘insured depository institution’ has the same*
3 *meaning as in section 3 of the Federal Deposit Insur-*
4 *ance Act.’.*”

5 (b) *CONFORMING AMENDMENT.*—*Section 7(b)(2) of the*
6 *Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is*
7 *amended by striking subparagraph (D).*

8 (c) *EFFECTIVE DATE.*—*This section and the amend-*
9 *ments made by this section shall become effective on Janu-*
10 *ary 1, 1996.*

11 ***SEC. 2013. MERGER OF BIF AND SAIF.***

12 (a) *IN GENERAL.*—

13 (1) *MERGER.*—*The Bank Insurance Fund and*
14 *the Savings Association Insurance Fund shall be*
15 *merged into the Deposit Insurance Fund established*
16 *by section 11(a)(4) of the Federal Deposit Insurance*
17 *Act, as amended by this section.*

18 (2) *DISPOSITION OF ASSETS AND LIABILITIES.*—
19 *All assets and liabilities of the Bank Insurance Fund*
20 *and the Savings Association Insurance Fund shall be*
21 *transferred to the Deposit Insurance Fund.*

22 (3) *NO SEPARATE EXISTENCE.*—*The separate ex-*
23 *istence of the Bank Insurance Fund and the Savings*
24 *Association Insurance Fund shall cease.*

1 (b) *SPECIAL RESERVE OF THE DEPOSIT INSURANCE*
2 *FUND.*—

3 (1) *IN GENERAL.*—Immediately before the merger
4 of the Bank Insurance Fund and the Savings Associa-
5 tion Insurance Fund, if the reserve ratio of the Sav-
6 ings Association Insurance Fund exceeds the des-
7 igned reserve ratio, the amount by which that re-
8 serve ratio exceeds the designated reserve ratio shall
9 be placed in the Special Reserve of the Deposit Insur-
10 ance Fund, established under section 11(a)(5) of the
11 Federal Deposit Insurance Act, as amended by this
12 section.

13 (2) *DEFINITION.*—For purposes of this sub-
14 section, the term “reserve ratio” means the ratio of
15 the net worth of the Savings Association Insurance
16 Fund to aggregate estimated insured deposits held in
17 all Savings Association Insurance Fund members.

18 (c) *EFFECTIVE DATE.*—This section and the amend-
19 ments made by this section shall become effective on Janu-
20 ary 1, 1998, if no insured depository institution is a sav-
21 ings association on that date.

22 (d) *TECHNICAL AND CONFORMING AMENDMENTS.*—

23 (1) *DEPOSIT INSURANCE FUND.*—Section
24 11(a)(4) of the Federal Deposit Insurance Act (12
25 U.S.C. 1821(a)(4)) is amended—

1 (A) by redesignating subparagraph (B) as
2 subparagraph (C);

3 (B) by striking subparagraph (A) and in-
4 serting the following:

5 “(A) *ESTABLISHMENT.*—*There is estab-*
6 *lished the Deposit Insurance Fund, which the*
7 *Corporation shall—*

8 “(i) *maintain and administer;*

9 “(ii) *use to carry out its insurance*
10 *purposes in the manner provided by this*
11 *subsection; and*

12 “(iii) *invest in accordance with section*
13 *13(a).*

14 “(B) *USES.*—*The Deposit Insurance Fund*
15 *shall be available to the Corporation for use with*
16 *respect to Deposit Insurance Fund members.”;*
17 *and*

18 (C) by striking “(4) *GENERAL PROVISIONS*
19 *RELATING TO FUNDS.—*” and inserting the fol-
20 *lowing:*

21 “(4) *ESTABLISHMENT OF THE DEPOSIT INSUR-*
22 *ANCE FUND.—*”.

23 (2) *OTHER REFERENCES.*—*Section 11(a)(4)(C)*
24 *of the Federal Deposit Insurance Act (12 U.S.C.*
25 *1821(a)(4)(C), as redesignated by paragraph (1) of*

1 *this subsection) is amended by striking “Bank Insur-*
2 *ance Fund and the Savings Association Insurance*
3 *Fund” and inserting “Deposit Insurance Fund”.*

4 (3) *DEPOSITS INTO FUND.—Section 11(a)(4) of*
5 *the Federal Deposit Insurance Act (12 U.S.C.*
6 *1821(a)(4)) is amended by adding at the end the fol-*
7 *lowing new subparagraph:*

8 “(D) *DEPOSITS.—All amounts assessed*
9 *against insured depository institutions by the*
10 *Corporation shall be deposited in the Deposit In-*
11 *surance Fund.”.*

12 (4) *SPECIAL RESERVE OF DEPOSITS.—Section*
13 *11(a)(5) of the Federal Deposit Insurance Act (12*
14 *U.S.C. 1821(a)(5)) is amended to read as follows:*

15 “(5) *SPECIAL RESERVE OF DEPOSIT INSURANCE*
16 *FUND.—*

17 “(A) *ESTABLISHMENT.—*

18 “(i) *IN GENERAL.—There is established*
19 *a Special Reserve of the Deposit Insurance*
20 *Fund, which shall be administered by the*
21 *Corporation and shall be invested in ac-*
22 *cordance with section 13(a).*

23 “(ii) *LIMITATION.—The Corporation*
24 *shall not provide any assessment credit, re-*

1 *fund, or other payment from any amount*
2 *in the Special Reserve.*

3 “(B) *EMERGENCY USE OF SPECIAL RE-*
4 *SERVE.—Notwithstanding subparagraph (A)(ii),*
5 *the Corporation may, in its sole discretion,*
6 *transfer amounts from the Special Reserve to the*
7 *Deposit Insurance Fund, for the purposes set*
8 *forth in paragraph (4), only if—*

9 “(i) *the reserve ratio of the Deposit In-*
10 *surance Fund is less than 50 percent of the*
11 *designated reserve ratio; and*

12 “(ii) *the Corporation expects the re-*
13 *serve ratio of the Deposit Insurance Fund to*
14 *remain at less than 50 percent of the des-*
15 *ignated reserve ratio for each of the next 4*
16 *calendar quarters.*

17 “(C) *EXCLUSION OF SPECIAL RESERVE IN*
18 *CALCULATING RESERVE RATIO.—Notwithstand-*
19 *ing any other provision of law, any amounts in*
20 *the Special Reserve shall be excluded in calculat-*
21 *ing the reserve ratio of the Deposit Insurance*
22 *Fund under section 7.”.*

23 (5) *FEDERAL HOME LOAN BANK ACT.—Section*
24 *21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act*
25 *(12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—*

1 (A) in subclause (I), by striking “to Savings
2 Associations Insurance Fund members” and in-
3 serting “to insured depository institutions, and
4 their successors, which were Savings Association
5 Insurance Fund members on September 1,
6 1995”; and

7 (B) in subclause (II), by striking “to Sav-
8 ings Associations Insurance Fund members” and
9 inserting “to insured depository institutions,
10 and their successors, which were Savings Asso-
11 ciation Insurance Fund members on September
12 1, 1995”.

13 (6) *REPEALS.*—

14 (A) *SECTION 3.*—Section 3(y) of the Federal
15 Deposit Insurance Act (12 U.S.C. 1813(y)) is
16 amended to read as follows:

17 “(y) *DEFINITIONS RELATING TO THE DEPOSIT INSUR-*
18 *ANCE FUND.*—The term

19 “(1) *DEPOSIT INSURANCE FUND.*—The term ‘De-
20 posit Insurance Fund’ means the fund established
21 under section 11(a)(4).

22 “(2) *RESERVE RATIO.*—The term ‘reserve ratio’
23 means the ratio of the net worth of the Deposit Insur-
24 ance Fund to aggregate estimated insured deposits
25 held in all insured depository institutions.

1 “(3) *DESIGNATED RESERVE RATIO.*—*The des-*
2 *ignated reserve ratio of the Deposit Insurance Fund*
3 *for each year shall be—*

4 “(A) *1.25 percent of estimated insured de-*
5 *posits; or*

6 “(B) *a higher percentage of estimated in-*
7 *sured deposits that the Board of Directors deter-*
8 *mines to be justified for that year by cir-*
9 *cumstances raising a significant risk of substan-*
10 *tial future losses to the fund.*

11 (B) *SECTION 7.*—*Section 7 of the Federal*
12 *Deposit Insurance Act (12 U.S.C. 1817) is*
13 *amended—*

14 (i) *by striking subsection (l);*

15 (ii) *by redesignating subsections (m)*
16 *and (n) as subsections (l) and (m), respec-*
17 *tively;*

18 (iii) *in subsection (b)(2), by striking*
19 *subparagraphs (B) and (F), and by redesign-*
20 *ating subparagraphs (C), (E), (G), and*
21 *(H) as subparagraphs (B) through (E), re-*
22 *spectively.*

23 (C) *SECTION 11.*—*Section 11(a) of the Fed-*
24 *eral Deposit Insurance Act (12 U.S.C. 1821(a))*
25 *is amended—*

1 (i) by striking paragraphs (6) and (7);

2 and

3 (ii) by redesignating paragraph (8) as
4 paragraph (6).

5 (7) SECTION 5136 OF THE REVISED STATUTES.—
6 Paragraph Eleventh of section 5136 of the Revised
7 Statutes (12 U.S.C. 24) is amended in the fifth sen-
8 tence, by striking “affected deposit insurance fund”
9 and inserting “Deposit Insurance Fund”.

10 (8) INVESTMENTS PROMOTING PUBLIC WELFARE;
11 LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d
12 undesignated paragraph of section 9 of the Federal
13 Reserve Act (12 U.S.C. 338a) is amended in the
14 fourth sentence, by striking “affected deposit insur-
15 ance fund” and inserting “Deposit Insurance Fund”.

16 (9) ADVANCES TO CRITICALLY
17 UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—
18 Section 10B(b)(3)(A)(ii) of the Federal Reserve Act
19 (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking
20 “any deposit insurance fund in” and inserting “the
21 Deposit Insurance Fund of”.

22 (10) AMENDMENTS TO THE BALANCED BUDGET
23 AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—
24 Section 255(g)(1)(A) of the Balanced Budget and

1 *Emergency Deficit Control Act of 1985 (2 U.S.C.*
2 *905(g)(1)(A)) is amended—*

3 *(A) by striking “Bank Insurance Fund”*
4 *and inserting “Deposit Insurance Fund”; and*

5 *(B) by striking “Federal Deposit Insurance*
6 *Corporation, Savings Association Insurance*
7 *Fund;”.*

8 (11) *FURTHER AMENDMENTS TO THE FEDERAL*
9 *HOME LOAN BANK ACT.—The Federal Home Loan*
10 *Bank Act (12 U.S.C. 1421 et seq.) is amended—*

11 *(A) in section 11(k) (12 U.S.C. 1431(k))—*

12 *(i) in the subsection heading, by strik-*
13 *ing “SAIF” and inserting “THE DEPOSIT*
14 *INSURANCE FUND”; and*

15 *(ii) by striking “Savings Association*
16 *Insurance Fund” each place such term ap-*
17 *pears and inserting “Deposit Insurance*
18 *Fund”;*

19 *(B) in section 21A(b)(4)(B) (12 U.S.C.*
20 *1441a(b)(4)(B)), by striking “affected deposit in-*
21 *surance fund” and inserting “Deposit Insurance*
22 *Fund”;*

23 *(C) in section 21A(b)(6)(B) (12 U.S.C.*
24 *1441a(b)(6)(B))—*

1 (i) in the subparagraph heading, by
2 striking “SAIF-INSURED BANKS” and in-
3 sserting “CHARTER CONVERSIONS”; and

4 (ii) by striking “Savings Association
5 Insurance Fund member” and inserting
6 “savings association”;

7 (D) in section 21A(b)(10)(A)(iv)(II) (12
8 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking
9 “Savings Association Insurance Fund” and in-
10 sserting “Deposit Insurance Fund”;

11 (E) in section 21B(e) (12 U.S.C.
12 1441b(e))—

13 (i) in paragraph (5), by inserting “as
14 of the date of funding” after “Savings Asso-
15 ciation Insurance Fund members” each
16 place such term appears;

17 (ii) by striking paragraph (7); and

18 (iii) by redesignating paragraph (8) as
19 paragraph (7); and

20 (F) in section 21B(k) (12 U.S.C.
21 1441b(k))—

22 (i) by striking paragraph (8); and

23 (ii) by redesignating paragraphs (9)
24 and (10) as paragraphs (8) and (9), respec-
25 tively.

1 (12) AMENDMENTS TO THE HOME OWNERS' LOAN
2 ACT.—*The Home Owners' Loan Act (12 U.S.C. 1461*
3 *et seq.) is amended—*

4 (A) *in section 5 (12 U.S.C. 1464)—*

5 (i) *in subsection (c)(5)(A), by striking*
6 *“that is a member of the Bank Insurance*
7 *Fund”;*

8 (ii) *in subsection (c)(6), by striking*
9 *“As used in this subsection—” and insert-*
10 *ing “For purposes of this subsection, the fol-*
11 *lowing definitions shall apply:”;*

12 (iii) *in subsection (o)(1), by striking*
13 *“that is a Bank Insurance Fund member”;*

14 (iv) *in subsection (o)(2)(A), by striking*
15 *“a Bank Insurance Fund member until*
16 *such time as it changes its status to a Sav-*
17 *ings Association Insurance Fund member”*
18 *and inserting “insured by the Deposit In-*
19 *surance Fund”;*

20 (v) *in subsection (t)(5)(D)(iii)(II), by*
21 *striking “affected deposit insurance fund”*
22 *and inserting “Deposit Insurance Fund”;*

23 (vi) *in subsection (t)(7)(C)(i)(I), by*
24 *striking “affected deposit insurance fund”*

1 and inserting “Deposit Insurance Fund”;
2 and
3 (vii) in subsection (v)(2)(A)(i), by
4 striking “, the Savings Association Insur-
5 ance Fund” and inserting “or the Deposit
6 Insurance Fund”; and
7 (B) in section 10 (12 U.S.C. 1467a)—
8 (i) in subsection (e)(1)(A)(iii)(VII), by
9 adding “or” at the end;
10 (ii) in subsection (e)(1)(A)(iv), by add-
11 ing “and” at the end;
12 (iii) in subsection (e)(1)(B), by strik-
13 ing “Savings Association Insurance Fund
14 or Bank Insurance Fund” and inserting
15 “Deposit Insurance Fund”;
16 (iv) in subsection (e)(2), by striking
17 “Savings Association Insurance Fund or
18 the Bank Insurance Fund” and inserting
19 “Deposit Insurance Fund”; and
20 (v) in subsection (m)(3), by striking
21 subparagraph (E), and by redesignating
22 subparagraphs (F), (G), and (H) as sub-
23 paragraphs (E), (F), and (G), respectively.

1 (13) *AMENDMENTS TO THE NATIONAL HOUSING*
2 *ACT.—The National Housing Act (12 U.S.C. 1701 et*
3 *seq.) is amended—*

4 (A) *in section 317(b)(1)(B) (12 U.S.C.*
5 *1723i(b)(1)(B)), by striking “Bank Insurance*
6 *Fund for banks or through the Savings Associa-*
7 *tion Insurance Fund for savings associations”*
8 *and inserting “Deposit Insurance Fund”; and*

9 (B) *in section 526(b)(1)(B)(ii) (12 U.S.C.*
10 *1735f–14(b)(1)(B)(ii)), by striking “Bank Insur-*
11 *ance Fund for banks and through the Savings*
12 *Association Insurance Fund for savings associa-*
13 *tions” and inserting “Deposit Insurance Fund”.*

14 (14) *FURTHER AMENDMENTS TO THE FEDERAL*
15 *DEPOSIT INSURANCE ACT.—The Federal Deposit In-*
16 *surance Act (12 U.S.C. 1811 et seq.) is amended—*

17 (A) *in section 3(a)(1) (12 U.S.C.*
18 *1813(a)(1)), by striking subparagraph (B) and*
19 *inserting the following:*

20 *“(B) includes any former savings associa-*
21 *tion.”;*

22 (B) *in section 5(b)(5) (12 U.S.C.*
23 *1815(b)(5)), by striking “the Bank Insurance*
24 *Fund or the Savings Association Insurance*

1 *Fund;*” and inserting “*Deposit Insurance*
2 *Fund,*”;

3 (C) in section 5(d) (12 U.S.C. 1815(d)), by
4 striking paragraphs (2) and (3);

5 (D) in section 5(d)(1) (12 U.S.C.
6 1815(d)(1))—

7 (i) in subparagraph (A), by striking
8 “*reserve ratios in the Bank Insurance Fund*
9 *and the Savings Association Insurance*
10 *Fund*” and inserting “*the reserve ratio of*
11 *the Deposit Insurance Fund*”;

12 (ii) by striking subparagraph (B) and
13 inserting the following:

14 “(2) *FEE CREDITED TO THE DEPOSIT INSUR-*
15 *ANCE FUND.—The fee paid by the depository institu-*
16 *tion under paragraph (1) shall be credited to the De-*
17 *posit Insurance Fund.*”;

18 (iii) by striking “(1) *UNINSURED IN-*
19 *STITUTIONS.—*”; and

20 (iv) by redesignating subparagraphs
21 (A) and (C) as paragraphs (1) and (3), re-
22 spectively, and moving the margins 2 ems
23 to the left;

24 (E) in section 5(e) (12 U.S.C. 1815(e))—

1 (i) in paragraph (5)(A), by striking
2 “Bank Insurance Fund or the Savings Asso-
3 ciation Insurance Fund” and inserting
4 “Deposit Insurance Fund”;

5 (ii) by striking paragraph (6); and

6 (iii) by redesignating paragraphs (7),
7 (8), and (9) as paragraphs (6), (7), and (8),
8 respectively;

9 (F) in section 6(5) (12 U.S.C. 1816(5)), by
10 striking “Bank Insurance Fund or the Savings
11 Association Insurance Fund” and inserting “De-
12 posit Insurance Fund”;

13 (G) in section 7(b) (12 U.S.C. 1817(b))—

14 (i) in paragraph (1)(D), by striking
15 “each deposit insurance fund” and insert-
16 ing “the Deposit Insurance Fund”;

17 (ii) in clauses (i)(I) and (iv) of para-
18 graph (2)(A), by striking “each deposit in-
19 surance fund” each place such term appears
20 and inserting “the Deposit Insurance
21 Fund”;

22 (iii) in paragraph (2)(A)(iii), by strik-
23 ing “a deposit insurance fund” and insert-
24 ing “the Deposit Insurance Fund”;

1 (iv) by striking clause (iv) of
2 paragagraph (2)(A);

3 (v) in paragraph (2)(C) (as redesign-
4 ated by paragraph (6)(B) of this sub-
5 section)—

6 (I) by striking “any deposit in-
7 surance fund” and inserting “the De-
8 posit Insurance Fund”; and

9 (II) by striking “that fund” each
10 place such term appears and inserting
11 “the Deposit Insurance Fund”;

12 (vi) in paragraph (2)(D) (as redesign-
13 ated by paragraph (6)(B) of this sub-
14 section)—

15 (I) in the subparagraph heading,
16 by striking “FUNDS ACHIEVE” and in-
17 serting “FUND ACHIEVES”; and

18 (II) by striking “a deposit insur-
19 ance fund” and inserting “the Deposit
20 Insurance Fund”;

21 (vii) in paragraph (3)—

22 (I) in the paragraph heading, by
23 striking “FUNDS” and inserting
24 “FUND”;

1 (II) by striking “that fund” each
2 place such term appears and inserting
3 “the Deposit Insurance Fund”;

4 (III) in subparagraph (A), by
5 striking “Except as provided in para-
6 graph (2)(F), if” and inserting “If”;

7 (IV) in subparagraph (A), by
8 striking “any deposit insurance fund”
9 and inserting “the Deposit Insurance
10 Fund”; and

11 (V) by striking subparagraphs (C)
12 and (D) and inserting the following:

13 “(C) AMENDING SCHEDULE.—The Corpora-
14 tion may, by regulation, amend a schedule pro-
15 mulgated under subparagraph (B).”;

16 (viii) in paragraph (6)—

17 (I) by striking “any such assess-
18 ment” and inserting “any such assess-
19 ment is necessary”;

20 (II) by striking “(A) is nec-
21 essary—”;

22 (III) by striking subparagraph
23 (B);

24 (IV) by redesignating clauses (i),
25 (ii), and (iii) as subparagraphs (A),

1 (B), and (C), respectively, and moving
2 the margins 2 ems to the left; and

3 (V) in subparagraph (C) (as re-
4 designated), by striking “; and” and
5 inserting a period;

6 (H) in section 11(f)(1) (12 U.S.C.
7 1821(f)(1)), by striking “, except that—” and all
8 that follows through the end of the paragraph
9 and inserting a period;

10 (I) in section 11(i)(3) (12 U.S.C.
11 1821(i)(3))—

12 (i) by striking subparagraph (B);

13 (ii) by redesignating subparagraph (C)
14 as subparagraph (B); and

15 (iii) in subparagraph (B) (as redesign-
16 ated), by striking “subparagraphs (A) and
17 (B)” and inserting “subparagraph (A)”;

18 (J) in section 11A(a) (12 U.S.C.
19 1821a(a))—

20 (i) in paragraph (2), by striking “LI-
21 ABILITIES.—” and all that follows through
22 “Except” and inserting “LIABILITIES.—Ex-
23 cept”;

24 (ii) by striking paragraph (2)(B); and

1 (iii) in paragraph (3), by striking “the
2 *Bank Insurance Fund, the Savings Associa-*
3 *tion Insurance Fund,”* and inserting “the
4 *Deposit Insurance Fund”*;
5 (K) in section 11A(b) (12 U.S.C. 1821a(b)),
6 by striking paragraph (4);
7 (L) in section 11A(f) (12 U.S.C. 1821a(f)),
8 by striking “*Savings Association Insurance*
9 *Fund”* and inserting “*Deposit Insurance Fund*”;
10 (M) in section 13 (12 U.S.C. 1823)—
11 (i) in subsection (a)(1), by striking
12 “*Bank Insurance Fund, the Savings Asso-*
13 *ciation Insurance Fund,”* and inserting
14 “*Deposit Insurance Fund, the Special Re-*
15 *serve of the Deposit Insurance Fund,”*;
16 (ii) in subsection (c)(4)(E)—
17 (I) in the subparagraph heading,
18 by striking “*FUNDS*” and inserting
19 “*FUND*”; and
20 (II) in clause (i), by striking
21 “*any insurance fund*” and inserting
22 “*the Deposit Insurance Fund*”;
23 (iii) in subsection (c)(4)(G)(ii)—

1 (I) by striking “appropriate in-
2 surance fund” and inserting “Deposit
3 Insurance Fund”;

4 (II) by striking “the members of
5 the insurance fund (of which such in-
6 stitution is a member)” and inserting
7 “insured depository institutions”;

8 (III) by striking “each member’s”
9 and inserting “each insured depository
10 institution’s”; and

11 (IV) by striking “the member’s”
12 each place such term appears and in-
13 sserting “the institution’s”;

14 (iv) in subsection (c), by striking para-
15 graph (11);

16 (v) in subsection (h), by striking
17 “Bank Insurance Fund” and inserting “De-
18 posit Insurance Fund”;

19 (vi) in subsection (k)(4)(B)(i), by
20 striking “Savings Association Insurance
21 Fund” and inserting “Deposit Insurance
22 Fund”; and

23 (vii) in subsection (k)(5)(A), by strik-
24 ing “Savings Association Insurance Fund”
25 and inserting “Deposit Insurance Fund”;

1 (N) in section 14(a) (12 U.S.C. 1824(a)) in
2 the fifth sentence—

3 (i) by striking “Bank Insurance Fund
4 or the Savings Association Insurance
5 Fund” and inserting “Deposit Insurance
6 Fund”; and

7 (ii) by striking “each such fund” and
8 inserting “the Deposit Insurance Fund”;

9 (O) in section 14(b) (12 U.S.C. 1824(b)), by
10 striking “Bank Insurance Fund or Savings Asso-
11 ciation Insurance Fund” and inserting “Deposit
12 Insurance Fund”;

13 (P) in section 14(c) (12 U.S.C. 1824(c)), by
14 striking paragraph (3);

15 (Q) in section 14(d) (12 U.S.C. 1824(d))—

16 (i) by striking “BIF” each place such
17 term appears and inserting “DIF”; and

18 (ii) by striking “Bank Insurance
19 Fund” each place such term appears and
20 inserting “Deposit Insurance Fund”;

21 (R) in section 15(c)(5) (12 U.S.C.
22 1825(c)(5))—

23 (i) by striking “the Bank Insurance
24 Fund or Savings Association Insurance
25 Fund, respectively” each place such term

1 *appears and inserting “the Deposit Insur-*
2 *ance Fund”*; and

3 (ii) *in subparagraph (B), by striking*
4 *“the Bank Insurance Fund or the Savings*
5 *Association Insurance Fund, respectively”*
6 *and inserting “the Deposit Insurance*
7 *Fund”*;

8 (S) *in section 17(a) (12 U.S.C. 1827(a))—*

9 (i) *in the subsection heading, by strik-*
10 *ing “BIF, SAIF,” and inserting “THE DE-*
11 *POSIT INSURANCE FUND”*; and

12 (ii) *in paragraph (1), by striking “the*
13 *Bank Insurance Fund, the Savings Associa-*
14 *tion Insurance Fund,” each place such term*
15 *appears and inserting “the Deposit Insur-*
16 *ance Fund”*;

17 (T) *in section 17(d) (12 U.S.C. 1827(d)), by*
18 *striking “the Bank Insurance Fund, the Savings*
19 *Association Insurance Fund,” each place such*
20 *term appears and inserting “the Deposit Insur-*
21 *ance Fund”*;

22 (U) *in section 18(m)(3) (12 U.S.C.*
23 *1828(m)(3))—*

24 (i) *by striking “Savings Association*
25 *Insurance Fund” each place such term ap-*

1 *pears and inserting “Deposit Insurance*
2 *Fund”*; and

3 (ii) in subparagraph (C), by striking
4 “or the Bank Insurance Fund”;

5 (V) in section 18(p) (12 U.S.C. 1828(p)), by
6 striking “deposit insurance funds” and inserting
7 “Deposit Insurance Fund”;

8 (W) in section 24 (12 U.S.C. 1831a) in sub-
9 sections (a)(1) and (d)(1)(A), by striking “ap-
10 propriate deposit insurance fund” each place
11 such term appears and inserting “Deposit Insur-
12 ance Fund”;

13 (X) in section 28 (12 U.S.C. 1831e), by
14 striking “affected deposit insurance fund” each
15 place such term appears and inserting “Deposit
16 Insurance Fund”;

17 (Y) by striking section 31 (12 U.S.C.
18 1831h);

19 (Z) in section 36(i)(3) (12 U.S.C.
20 1831m(i)(3)) by striking “affected deposit insur-
21 ance fund” and inserting “Deposit Insurance
22 Fund”;

23 (AA) in section 38(a) (12 U.S.C. 1831o(a))
24 in the subsection heading, by striking “FUNDS”
25 and inserting “FUND”;

1 *(BB) in section 38(k) (12 U.S.C.*
2 *1831o(k))—*

3 *(i) in paragraph (1), by striking “a*
4 *deposit insurance fund” and inserting “the*
5 *Deposit Insurance Fund”; and*

6 *(ii) in paragraph (2)(A)—*

7 *(I) by striking “A deposit insur-*
8 *ance fund” and inserting “The Deposit*
9 *Insurance Fund”; and*

10 *(II) by striking “the deposit in-*
11 *surance fund’s outlays” and inserting*
12 *“the outlays of the Deposit Insurance*
13 *Fund”; and*

14 *(CC) in section 38(o) (12 U.S.C.*
15 *1831o(o))—*

16 *(i) by striking “ASSOCIATIONS.—” and*
17 *all that follows through “Subsections (e)(2)”*
18 *and inserting “ASSOCIATIONS.—Subsections*
19 *(e)(2)”;*

20 *(ii) by redesignating subparagraphs*
21 *(A), (B), and (C) as paragraphs (1), (2),*
22 *and (3), respectively, and moving the mar-*
23 *gins 2 ems to the left; and*

24 *(iii) in paragraph (1) (as redesign-*
25 *ated), by redesignating clauses (i) and (ii)*

1 as subparagraphs (A) and (B), respectively,
2 and moving the margins 2 ems to the left.

3 (15) AMENDMENTS TO THE FINANCIAL INSTITU-
4 TIONS REFORM, RECOVERY, AND ENFORCEMENT ACT
5 OF 1989.—*The Financial Institutions Reform, Recov-*
6 *ery, and Enforcement Act (Public Law 101–73; 103*
7 *Stat. 183) is amended—*

8 (A) in section 951(b)(3)(B) (12 U.S.C.
9 1833a(b)(3)(B)), by striking “Bank Insurance
10 Fund, the Savings Association Insurance Fund,”
11 and inserting “Deposit Insurance Fund”; and

12 (B) in section 1112(c)(1)(B) (12 U.S.C.
13 3341(c)(1)(B)), by striking “Bank Insurance
14 Fund, the Savings Association Insurance Fund,”
15 and inserting “Deposit Insurance Fund”.

16 (16) AMENDMENT TO THE BANK ENTERPRISE
17 ACT OF 1991.—*Section 232(a)(1) of the Bank Enter-*
18 *prise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended*
19 *by striking “section 7(b)(2)(H)” and inserting “sec-*
20 *tion 7(b)(2)(G)”.*

21 (17) AMENDMENT TO THE BANK HOLDING COM-
22 PANY ACT.—*Section 2(j)(2) of the Bank Holding*
23 *Company Act of 1956 (12 U.S.C. 1841(j)(2)) is*
24 *amended by striking “Savings Association Insurance*
25 *Fund” and inserting “Deposit Insurance Fund”.*

1 **SEC. 2014. CREATION OF SAIF SPECIAL RESERVE.**

2 *Section 11(a)(6) of the Federal Deposit Insurance Act*
3 *(12 U.S.C. 1821(a)(6)) is amended by adding at the end*
4 *the following new subparagraph:*

5 “(L) *ESTABLISHMENT OF SAIF SPECIAL RE-*
6 *SERVE.—*

7 “(i) *ESTABLISHMENT.—If, on January 1,*
8 *1998, the reserve ratio of the Savings Association*
9 *Insurance Fund exceeds the designated reserve*
10 *ratio, there is established a Special Reserve of the*
11 *Savings Association Insurance Fund, which shall*
12 *be administered by the Corporation and shall be*
13 *invested in accordance with section 13(a).*

14 “(ii) *AMOUNTS IN SPECIAL RESERVE.—If,*
15 *on January 1, 1998, the reserve ratio of the Sav-*
16 *ings Association Insurance Fund exceeds the des-*
17 *ignated reserve ratio, the amount by which the*
18 *reserve ratio exceeds the designated reserve ratio*
19 *shall be placed in the Special Reserve of the Sav-*
20 *ings Association Insurance Fund established by*
21 *clause (i).*

22 “(iii) *LIMITATION.—The Corporation shall*
23 *not provide any assessment credit, refund, or*
24 *other payment from any amount in the Special*
25 *Reserve of the Savings Association Insurance*
26 *Fund.*

1 “(iv) *EMERGENCY USE OF SPECIAL RE-*
2 *SERVE.—Notwithstanding clause (iii), the Cor-*
3 *poration may, in its sole discretion, transfer*
4 *amounts from the Special Reserve of the Savings*
5 *Association Insurance Fund to the Savings Asso-*
6 *ciation Insurance Fund for the purposes set forth*
7 *in paragraph (4), only if—*

8 “(I) *the reserve ratio of the Savings*
9 *Association Insurance Fund is less than 50*
10 *percent of the designated reserve ratio; and*

11 “(II) *the Corporation expects the re-*
12 *serve ratio of the Savings Association Insur-*
13 *ance Fund to remain at less than 50 per-*
14 *cent of the designated reserve ratio for each*
15 *of the next 4 calendar quarters.*

16 “(v) *EXCLUSION OF SPECIAL RESERVE IN*
17 *CALCULATING RESERVE RATIO.—Notwithstand-*
18 *ing any other provision of law, any amounts in*
19 *the Special Reserve of the Savings Association*
20 *Insurance Fund shall be excluded in calculating*
21 *the reserve ratio of the Savings Association In-*
22 *surance Fund.”.*

1 **SEC. 2015. REFUND OF AMOUNTS IN DEPOSIT INSURANCE**
2 **FUND IN EXCESS OF DESIGNATED RESERVE**
3 **AMOUNT.**

4 *Subsection (e) of section 7 of the Federal Deposit In-*
5 *surance Act (12 U.S.C. 1817(e)) is amended to read as fol-*
6 *lows:*

7 “(e) *REFUNDS.*—

8 “(1) *OVERPAYMENTS.*—*In the case of any pay-*
9 *ment of an assessment by an insured depository insti-*
10 *tution in excess of the amount due to the Corporation,*
11 *the Corporation may—*

12 “(A) *refund the amount of the excess pay-*
13 *ment to the insured depository institution; or*

14 “(B) *credit such excess amount toward the*
15 *payment of subsequent semiannual assessments*
16 *until such credit is exhausted.*

17 “(2) *BALANCE IN INSURANCE FUND IN EXCESS*
18 *OF DESIGNATED RESERVE.*—

19 “(A) *IN GENERAL.*—*Subject to subpara-*
20 *graphs (B) and (C), if, as of the end of any*
21 *semiannual assessment period, the amount of the*
22 *actual reserves in—*

23 “(i) *the Bank Insurance Fund (until*
24 *the merger of such fund into the Deposit In-*
25 *surance Fund pursuant to section 2013 of*
26 *the Balanced Budget Act of 1995); or*

1 “(ii) *the Deposit Insurance Fund*
2 *(after the establishment of such fund),*
3 *exceeds the balance required to meet the des-*
4 *ignated reserve ratio applicable with respect to*
5 *such fund, such excess amount shall be refunded*
6 *to insured depository institutions by the Cor-*
7 *poration on such basis as the Board of Directors*
8 *determines to be appropriate, taking into ac-*
9 *count the factors considered under the risk-based*
10 *assessment system.*

11 “(B) *REFUND NOT TO EXCEED PREVIOUS*
12 *SEMIANNUAL ASSESSMENT.—The amount of any*
13 *refund under this paragraph to any member of*
14 *a deposit insurance fund for any semiannual as-*
15 *essment period may not exceed the total amount*
16 *of assessments paid by such member to the insur-*
17 *ance fund with respect to such period.*

18 “(C) *REFUND LIMITATION FOR CERTAIN IN-*
19 *STITUTIONS.—No refund may be made under*
20 *this paragraph with respect to the amount of*
21 *any assessment paid for any semiannual assess-*
22 *ment period by any insured depository institu-*
23 *tion described in clause (v) of subsection*
24 *(b)(2)(A).”.*

1 **SEC. 2016. ASSESSMENT RATES FOR SAIF MEMBERS MAY**
2 **NOT BE LESS THAN ASSESSMENT RATES FOR**
3 **BIF MEMBERS.**

4 *Section 7(b)(2)(C) of the Federal Deposit Insurance*
5 *Act (12 U.S.C. 1817(b)(2)(E), as redesignated by section*
6 *2013(d)(6) of this Act) is amended—*

- 7 *(1) by striking “and” at the end of clause (i);*
8 *(2) by striking the period at the end of clause*
9 *(ii) and inserting “; and”; and*
10 *(3) by adding at the end the following new*
11 *clause:*

12 *“(iii) notwithstanding any other provi-*
13 *sion of this subsection, during the period be-*
14 *ginning on the date of enactment of the Bal-*
15 *anced Budget Act of 1995, and ending on*
16 *January 1, 1998, the assessment rate for a*
17 *Savings Association Insurance Fund mem-*
18 *ber may not be less than the assessment rate*
19 *for a Bank Insurance Fund member that*
20 *poses a comparable risk to the deposit in-*
21 *surance fund.”.*

22 **SEC. 2017. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO**
23 **MAINTAIN THE RESERVE RATIO OF A DE-**
24 **POSIT INSURANCE FUND.**

25 *(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal*
26 *Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is*

1 *amended in the matter preceding subclause (I) by inserting*
2 *“when necessary, and only to the extent necessary” after*
3 *“insured depository institutions”.*

4 (b) *LIMITATION ON ASSESSMENT.—Section*
5 *7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12*
6 *U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:*

7 *“(iii) LIMITATION ON ASSESSMENT.—*
8 *Except as provided in clause (v), the Board*
9 *of Directors shall not set semiannual assess-*
10 *ments with respect to a deposit insurance*
11 *fund in excess of the amount needed—*

12 *“(I) to maintain the reserve ratio*
13 *of the fund at the designated reserve*
14 *ratio; or*

15 *“(II) if the reserve ratio is less*
16 *than the designated reserve ratio, to in-*
17 *crease the reserve ratio to the des-*
18 *ignated reserve ratio.”.*

19 (c) *EXCEPTION TO LIMITATION ON ASSESSMENTS.—*
20 *Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12*
21 *U.S.C. 1817(b)(2)(A)) is amended by adding at the end the*
22 *following new clause:*

23 *“(v) EXCEPTION TO LIMITATION ON AS-*
24 *SESSMENTS.—The Board of Directors may*
25 *set semiannual assessments in excess of the*

1 amount permitted under clauses (i) and
2 (iii) with respect to insured depository in-
3 stitutions that exhibit financial, oper-
4 ational, or compliance weaknesses ranging
5 from moderately severe to unsatisfactory, or
6 are not well capitalized, as that term is de-
7 fined in section 38.”.

8 **SEC. 2018. LIMITATION ON AUTHORITY OF OVERSIGHT**
9 **BOARD TO CONTINUE TO EMPLOY MORE**
10 **THAN 18 OFFICERS AND EMPLOYEES.**

11 (a) *IN GENERAL.*—Section 21A(a) of the Federal
12 *Home Loan Bank Act (12 U.S.C. 1441a(a))* is amended by
13 *adding at the end the following new paragraph:*

14 “(17) *PHASED-DOWN OPERATION OF OVERSIGHT*
15 *BOARD FOLLOWING TERMINATION OF CORPORATION.*—

16 “(A) *TERMINATION OF AUTHORITY TO EM-*
17 *PLOY STAFF.*—*Except as provided in subpara-*
18 *graph (B), the authority of the Thrift Depositor*
19 *Protection Oversight Board under paragraph (5)*
20 *to establish officer and employee positions, to*
21 *compensate officers and employees of the Board,*
22 *and to provide other benefits for officers and em-*
23 *ployees of the Board shall terminate as of De-*
24 *cember 31, 1995.*

1 “(B) *LIMITED AUTHORITY FOR EMPLOYING*
2 *STAFF.—The Thrift Depositor Protection Over-*
3 *sight Board may employ not more than 18 indi-*
4 *viduals, excluding any employee of any other de-*
5 *partment or agency utilized by the Board, to*
6 *carry out the functions of the Board during the*
7 *period beginning on January 1, 1996 and end-*
8 *ing on May 1, 1996, other than employees whose*
9 *employment is in the process of being terminated*
10 *in accordance with subparagraph (C).*

11 “(C) *TERMINATION OF EMPLOYMENT OF AD-*
12 *DITIONAL EMPLOYEES REQUIRED TO BE COM-*
13 *MENCED.—The Thrift Depositor Protection Over-*
14 *sight Board shall commence terminating, not*
15 *later than December 31, 1995, and in accordance*
16 *with title 5, United States Code, and applicable*
17 *regulations of the Office of Personnel Manage-*
18 *ment, the employment of any employee of the*
19 *Board whose continued employment by the*
20 *Board after such date is inconsistent with the re-*
21 *quirement of subparagraph (B).”.*

22 (b) *TECHNICAL AND CONFORMING AMENDMENTS.—*
23 *Section 21A(a)(5) of the Federal Home Loan Bank Act (12*
24 *U.S.C. 1441a(a)(5)) is amended in subparagraphs (B), (C),*
25 *(D), and (E), by inserting “subject to paragraph (17),”*

1 *after the closing parenthesis of the subparagraph designa-*
2 *tion in each such subparagraph.*

3 **SEC. 2019. DEFINITIONS.**

4 *For purposes of this subtitle—*

5 *(1) the term “Bank Insurance Fund” means the*
6 *fund established pursuant to section (11)(a)(5)(A) of*
7 *the Federal Deposit Insurance Act, as that section ex-*
8 *isted on the day before the date of enactment of this*
9 *Act;*

10 *(2) the terms “Bank Insurance Fund member”*
11 *and “Savings Association Insurance Fund member”*
12 *have the same meanings as in section 7(l) of the Fed-*
13 *eral Deposit Insurance Act;*

14 *(3) the terms “bank”, “Board of Directors”,*
15 *“Corporation”, “insured depository institution”,*
16 *“Federal savings association”, “savings association”,*
17 *“State savings bank”, and “State depository institu-*
18 *tion” have the same meanings as in section 3 of the*
19 *Federal Deposit Insurance Act;*

20 *(4) the term “Deposit Insurance Fund” means*
21 *the fund established under section 11(a)(4) of the Fed-*
22 *eral Deposit Insurance Act, as amended by section*
23 *2013(d) of this Act;*

1 (5) the term “depository institution holding com-
2 pany” has the same meaning as in section 3 of the
3 *Federal Deposit Insurance Act*;

4 (6) the term “designated reserve ratio” has the
5 same meaning as in section 7(b)(2)(A)(iv) of the *Fed-
6 eral Deposit Insurance Act*;

7 (7) the term “Savings Association Insurance
8 Fund” means the fund established pursuant to section
9 11(a)(6)(A) of the *Federal Deposit Insurance Act*, as
10 that section existed on the day before the date of en-
11 actment of this Act; and

12 (8) the term “SAIF-assessable deposit” means—

13 (A) a deposit that is subject to assessment
14 for purposes of the *Savings Association Insur-
15 ance Fund* under the *Federal Deposit Insurance
16 Act*; and

17 (B) a deposit that section 5(d)(3) of the
18 *Federal Deposit Insurance Act* treats as insured
19 by the *Savings Association Insurance Fund*.

20 ***Subtitle B—Housing***

21 ***SEC. 2051. ANNUAL ADJUSTMENT FACTORS FOR OPERAT- 22 ING COSTS ONLY; RESTRAINT ON RENT IN- 23 CREASES.***

24 (a) *ANNUAL ADJUSTMENT FACTORS FOR OPERATING*
25 *COSTS ONLY.*—Section 8(c)(2)(A) of the *United States*

1 *Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amend-*
2 *ed—*

3 (1) *by striking “(2)(A)” and inserting*
4 *“(2)(A)(i)”;*

5 (2) *by striking the second sentence and all that*
6 *follows through the end of the subparagraph; and*

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

9 “(ii) *Each assistance contract under this section shall*
10 *provide that—*

11 “(I) *if the maximum monthly rent for a unit in*
12 *a new construction or substantial rehabilitation*
13 *project to be adjusted using an annual adjustment*
14 *factor exceeds 100 percent of the fair market rent for*
15 *an existing dwelling unit in the market area, the Sec-*
16 *retary shall adjust the rent using an operating costs*
17 *factor that increases the rent to reflect increases in*
18 *operating costs in the market area; and*

19 “(II) *if the owner of a unit in a project described*
20 *in subclause (I) demonstrates that the adjusted rent*
21 *determined under subclause (I) would not exceed the*
22 *rent for an unassisted unit of similar quality, type,*
23 *and age in the same market area, as determined by*
24 *the Secretary, the Secretary shall use the otherwise*
25 *applicable annual adjustment factor.”.*

1 (b) *RESTRAINT ON SECTION 8 RENT INCREASES.*—
2 Section 8(c)(2)(A) of the United States Housing Act of 1937
3 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a),
4 is amended by adding at the end the following new clause:

5 “(iii)(I) Subject to subclause (II), with respect to any
6 unit assisted under this section that is occupied by the same
7 family at the time of the most recent annual rental adjust-
8 ment, if the assistance contract provides for the adjustment
9 of the maximum monthly rent by applying an annual ad-
10 justment factor, and if the rent for the unit is otherwise
11 eligible for an adjustment based on the full amount of the
12 annual adjustment factor, 0.01 shall be subtracted from the
13 amount of the annual adjustment factor, except that the an-
14 nual adjustment factor shall not be reduced to less than 1.0.

15 “(II) With respect to any unit described in subclause
16 (I) that is assisted under the certificate program, the ad-
17 justed rent shall not exceed the rent for a comparable unas-
18 sisted unit of similar quality, type, and age in the market
19 area in which the unit is located.”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this
21 section shall become effective on October 1, 1995.

22 **SEC. 2052. FORECLOSURE AVOIDANCE AND BORROWER AS-**
23 **SISTANCE.**

24 (a) *FORECLOSURE AVOIDANCE.*—Except as provided
25 in subsection (e), the last sentence of section 204(a) of the

1 *National Housing Act (12 U.S.C. 1710(a)) is amended by*
2 *inserting before the period the following: “: And provided*
3 *further, That the Secretary may pay insurance benefits to*
4 *the mortgagee to recompense the mortgagee for its actions*
5 *to provide an alternative to foreclosure of a mortgage that*
6 *is in default, which actions may include such actions as*
7 *special forbearance, loan modification, and deeds in lieu of*
8 *foreclosure, all upon such terms and conditions as the mort-*
9 *gagee shall determine in the mortgagee’s sole discretion*
10 *within guidelines provided by the Secretary, but which may*
11 *not include assignment of a mortgage to the Secretary: And*
12 *provided further, That for purposes of the preceding proviso,*
13 *no action authorized by the Secretary and no action taken,*
14 *nor any failure to act, by the Secretary or the mortgagee*
15 *shall be subject to judicial review”.*

16 *(b) AUTHORITY TO ASSIST MORTGAGORS IN DE-*
17 *FAULT.—Except as provided in subsection (e), section 230*
18 *of the National Housing Act (12 U.S.C. 1715u) is amended*
19 *to read as follows:*

20 *“AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT*

21 *“SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The*
22 *Secretary may establish a program for payment of a par-*
23 *tial insurance claim to a mortgagee that agrees to apply*
24 *the claim amount to payment of a mortgage on a 1- to*
25 *4-family residence that is in default. Any such payment*
26 *under such program to the mortgagee shall be made in the*

1 *Secretary's sole discretion and on terms and conditions ac-*
2 *ceptable to the Secretary, except that—*

3 “(1) *the amount of the payment shall be in an*
4 *amount determined by the Secretary, which shall not*
5 *exceed an amount equivalent to 12 monthly mortgage*
6 *payments and any costs related to the default that are*
7 *approved by the Secretary; and*

8 “(2) *the mortgagor shall agree to repay the*
9 *amount of the insurance claim to the Secretary upon*
10 *terms and conditions acceptable to the Secretary.*

11 *The Secretary may pay the mortgagee, from the appro-*
12 *priate insurance fund, in connection with any activities*
13 *that the mortgagee is required to undertake concerning re-*
14 *payment by the mortgagor of the amount owed to the Sec-*
15 *retary.*

16 “(b) *ASSIGNMENT.—*

17 “(1) *PROGRAM AUTHORITY.—The Secretary may*
18 *establish a program for assignment to the Secretary,*
19 *upon request of the mortgagee, of a mortgage on a 1-*
20 *to 4-family residence insured under this Act.*

21 “(2) *PROGRAM REQUIREMENTS.—The Secretary*
22 *may accept assignment of a mortgage under a pro-*
23 *gram under this subsection only if—*

24 “(A) *the mortgage was in default;*

1 “(B) the mortgagee has modified the mort-
2 gage to cure the default and provide for mortgage
3 payments within the reasonable ability of the
4 mortgagor to pay at interest rates not exceeding
5 current market interest rates; and

6 “(C) the Secretary arranges for servicing of
7 the assigned mortgage by a mortgagee (which
8 may include the assigning mortgagee) through
9 procedures that the Secretary has determined to
10 be in the best interests of the appropriate insur-
11 ance fund.

12 “(3) *PAYMENT OF INSURANCE BENEFITS.*—Upon
13 accepting assignment of a mortgage under the pro-
14 gram under this subsection, the Secretary may pay
15 insurance benefits to the mortgagee from the appro-
16 priate insurance fund in an amount that the Sec-
17 retary determines to be appropriate, but which may
18 not exceed the amount necessary to compensate the
19 mortgagee for the assignment and any losses and ex-
20 penses resulting from the mortgage modification.

21 “(c) *PROHIBITION OF JUDICIAL REVIEW.*—No decision
22 by the Secretary to exercise or forego exercising any author-
23 ity under this section shall be subject to judicial review.

24 “(d) *SAVINGS PROVISION.*—Any mortgage for which
25 the mortgagor has applied to the Secretary, before the date

1 of the enactment of the *Balanced Budget Act of 1995*, for
2 assignment pursuant to subsection (b) of this section as in
3 effect before such date of enactment shall continue to be gov-
4 erned by the provisions of this section in effect immediately
5 before such date of enactment.

6 “(e) *APPLICABILITY OF OTHER LAWS.*—No provision
7 of this Act or any other law shall be construed to require
8 the Secretary to provide an alternative to foreclosure for
9 mortgagees with mortgages on 1- to 4-family residences in-
10 sured by the Secretary under this Act, or to accept assign-
11 ments of such mortgages.”.

12 (c) *APPLICABILITY OF AMENDMENTS.*—Except as pro-
13 vided in subsection (e), the amendments made by sub-
14 sections (a) and (b) shall apply only with respect to mort-
15 gages insured under the *National Housing Act* that are
16 originated on or after October 1, 1995.

17 (d) *REGULATIONS.*—Not later than the expiration of
18 the 60-day period beginning on the date of the enactment
19 of this Act, the Secretary of Housing and Urban Develop-
20 ment shall issue interim regulations to implement this sec-
21 tion and the amendments made by this section.

22 (e) *EFFECTIVENESS AND APPLICABILITY.*—If this Act
23 is enacted after the date of the enactment of the Depart-
24 ments of Veterans Affairs and Housing and Urban Develop-

1 *ment, and Independent Agencies Appropriations Act,*
 2 *1996—*

3 *(1) subsections (a), (b), (c), and (d) of this sec-*
 4 *tion shall not take effect; and*

5 *(2) subsection (c) of the section relating to fore-*
 6 *closure avoidance and borrower assistance in title II*
 7 *of the Departments of Veterans Affairs and Housing*
 8 *and Urban Development, and Independent Agencies*
 9 *Appropriations Act, 1996, is amended by striking*
 10 *“only with respect to mortgages insured under the*
 11 *National Housing Act that are originated before Octo-*
 12 *ber 1, 1995” and inserting “to mortgages originated*
 13 *before, on, and after October 1, 1995”.*

14 ***TITLE III—COMMUNICATIONS***
 15 ***AND SPECTRUM ALLOCATION***
 16 ***PROVISIONS***

17 ***SEC. 3001. SPECTRUM AUCTIONS.***

18 *(a) EXTENSION AND EXPANSION OF AUCTION AUTHOR-*
 19 *ITY.—*

20 *(1) AMENDMENTS.—Section 309(j) of the Com-*
 21 *munications Act of 1934 (47 U.S.C. 309(j)) is amend-*
 22 *ed—*

23 *(A) by striking paragraphs (1) and (2) and*
 24 *inserting the following:*

1 “(1) *GENERAL AUTHORITY.*—If, consistent with
2 the obligations described in paragraph (6)(E), mutu-
3 ally exclusive applications are accepted for any ini-
4 tial license or construction permit, then the Commis-
5 sion shall grant such license or permit to a qualified
6 applicant through a system of competitive bidding
7 that meets the requirements of this subsection.

8 “(2) *EXEMPTIONS.*—The competitive bidding au-
9 thority granted by this subsection shall not apply to
10 licenses or construction permits issued by the Com-
11 mission—

12 “(A) that, as the result of the Commission
13 carrying out the obligations described in para-
14 graph (6)(E), are not mutually exclusive;

15 “(B) for public safety radio services, includ-
16 ing non-Government uses the sole or principal
17 purpose of which is to protect the safety of life,
18 health, and property and which are not made
19 commercially available to the public; or

20 “(C) for initial licenses or construction per-
21 mits for new terrestrial digital television services
22 assigned by the Commission to existing terres-
23 trial broadcast licensees to replace their current
24 television licenses, unless—

1 “(i) the Commission, not later than
2 180 days after the date of enactment of the
3 *Balanced Budget Act of 1995*, after notice
4 and public comment, submits to Congress a
5 report on the use of the authority provided
6 in this subsection for the assignment of ini-
7 tial licenses or construction permits for use
8 of the electromagnetic spectrum allocated
9 but not assigned as of the date of enactment
10 of that Act for television broadcast services;
11 and

12 “(ii) the Congress amends this sub-
13 section to authorize the use of the authority
14 provided by this subsection for such licenses
15 or permits.

16 *Except as provided in this subparagraph, the*
17 *Commission may not assign initial licenses or*
18 *construction permits under this title to terres-*
19 *trial commercial television broadcast licensees to*
20 *replace their existing broadcast licenses before*
21 *November 15, 1996.”; and*

22 (B) by striking “1998” in paragraph (11)
23 and inserting “2002”.

24 (2) *CONFORMING AMENDMENT.*—Subsection (i) of
25 section 309 of such Act is repealed.

1 (3) *EFFECTIVE DATE.*—*The amendment made by*
2 *paragraph (1)(A) shall not apply with respect to any*
3 *license or permit for a terrestrial radio or television*
4 *broadcast station for which the Federal Communica-*
5 *tions Commission has accepted mutually exclusive ap-*
6 *plications on or before the date of enactment of this*
7 *Act.*

8 (b) *COMMISSION OBLIGATION TO MAKE ADDITIONAL*
9 *SPECTRUM AVAILABLE BY AUCTION.*—

10 (1) *IN GENERAL.*—*The Federal Communications*
11 *Commission shall complete all actions necessary to*
12 *permit the assignment, by September 30, 2002, by*
13 *competitive bidding pursuant to section 309(j) of the*
14 *Communications Act of 1934 (47 U.S.C. 309(j)) of li-*
15 *censes for the use of bands of frequencies that—*

16 (A) *individually span not less than 25*
17 *megahertz, unless a combination of smaller*
18 *bands can, notwithstanding the provisions of*
19 *paragraph (7) of such section, reasonably be ex-*
20 *pected to produce greater receipts;*

21 (B) *in the aggregate span not less than 100*
22 *megahertz;*

23 (C) *are located below 3 gigahertz; and*

24 (D) *have not, as of the date of enactment of*
25 *this Act—*

1 (i) been designated by Commission reg-
2 ulation for assignment pursuant to such
3 section;

4 (ii) been identified by the Secretary of
5 Commerce pursuant to section 113 of the
6 National Telecommunications and Informa-
7 tion Administration Organization Act; or

8 (iii) been reserved for Federal Govern-
9 ment use pursuant to section 305 of the
10 Communications Act of 1934 (47 U.S.C.
11 305).

12 *The Commission shall conduct the competitive*
13 *bidding for not less than one-half of such aggre-*
14 *gate spectrum by September 30, 2000.*

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

18 (A) *seek to promote the most efficient use of*
19 *the spectrum;*

20 (B) *take into account the cost to incumbent*
21 *licensees of relocating existing uses to other*
22 *bands of frequencies or other means of commu-*
23 *nication;*

24 (C) *take into account the needs of public*
25 *safety radio services;*

1 (D) comply with the requirements of inter-
2 national agreements concerning spectrum alloca-
3 tions; and

4 (E) take into account the costs to satellite
5 service providers that could result from multiple
6 auctions of like spectrum internationally for
7 global satellite systems.

8 (3) NOTIFICATION TO NTIA.—The Commission
9 shall notify the Secretary of Commerce if—

10 (A) the Commission is not able to provide
11 for the effective relocation of incumbent licensees
12 to bands of frequencies that are available to the
13 Commission for assignment; and

14 (B) the Commission has identified bands of
15 frequencies that are—

16 (i) suitable for the relocation of such li-
17 censees; and

18 (ii) allocated for Federal Government
19 use, but that could be reallocated pursuant
20 to part B of the National Telecommuni-
21 cations and Information Administration
22 Organization Act (as amended by this sec-
23 tion).

24 (c) IDENTIFICATION AND REALLOCATION OF FRE-
25 QUENCIES.—The National Telecommunications and Infor-

1 *mation Administration Organization Act (47 U.S.C. 901*
2 *et seq.) is amended—*

3 *(1) in section 113, by adding at the end the fol-*
4 *lowing new subsections:*

5 *“(f) ADDITIONAL REALLOCATION REPORT.—If the Sec-*
6 *retary receives a notice from the Commission pursuant to*
7 *section 3001(b)(3) of the Balanced Budget Act of 1995, the*
8 *Secretary shall prepare and submit to the President and*
9 *the Congress a report recommending for reallocation for use*
10 *other than by Federal Government stations under section*
11 *305 of the 1934 Act (47 U.S.C. 305), bands of frequencies*
12 *that are suitable for the uses identified in the Commission’s*
13 *notice.*

14 *“(g) RELOCATION OF FEDERAL GOVERNMENT STA-*
15 *TIONS.—*

16 *“(1) IN GENERAL.—In order to expedite the effi-*
17 *cient use of the electromagnetic spectrum and not-*
18 *withstanding section 3302(b) of title 31, United*
19 *States Code, any Federal entity which operates a Fed-*
20 *eral Government station may accept payment in ad-*
21 *vance or in-kind reimbursement of costs, or a com-*
22 *bination of payment in advance and in-kind reim-*
23 *bursement, from any person to defray entirely the ex-*
24 *penses of relocating the Federal entity’s operations*
25 *from one or more radio spectrum frequencies to an-*

1 *other frequency or frequencies, including, without lim-*
2 *itation, the costs of any modification, replacement, or*
3 *reissuance of equipment, facilities, operating manu-*
4 *als, regulations, or other expenses incurred by that*
5 *entity. Any such payment shall be deposited in the*
6 *account of such Federal entity in the Treasury of the*
7 *United States. Funds deposited according to this*
8 *paragraph shall be available, without appropriation*
9 *or fiscal year limitation, only for the operations of*
10 *the Federal entity for which such funds were depos-*
11 *ited under this paragraph.*

12 *“(2) PROCESS FOR RELOCATION.—Any person*
13 *seeking to relocate a Federal Government station that*
14 *has been assigned a frequency within a band allocated*
15 *for mixed Federal and non-Federal use may submit*
16 *a petition for such relocation to NTIA. The NTIA*
17 *shall limit or terminate the Federal Government sta-*
18 *tion’s operating license when the following require-*
19 *ments are met:*

20 *“(A) the person seeking relocation of the*
21 *Federal Government station has guaranteed to*
22 *defray entirely, through payment in advance, in-*
23 *kind reimbursement of costs, or a combination*
24 *thereof, all relocation costs incurred by the Fed-*
25 *eral entity, including all engineering, equipment,*

1 *site acquisition and construction, and regulatory*
2 *fee costs;*

3 “(B) *the person seeking relocation completes*
4 *all activities necessary for implementing the relo-*
5 *cation, including construction of replacement fa-*
6 *ilities (if necessary and appropriate) and iden-*
7 *tifying and obtaining on the Federal entity’s be-*
8 *half new frequencies for use by the relocated Fed-*
9 *eral Government station (where such station is*
10 *not relocating to spectrum reserved exclusively*
11 *for Federal use);*

12 “(C) *any necessary replacement facilities,*
13 *equipment modifications, or other changes have*
14 *been implemented and tested to ensure that the*
15 *Federal Government station is able to success-*
16 *fully accomplish its purposes; and*

17 “(D) *NTIA has determined that the pro-*
18 *posed use of the spectrum frequency band to*
19 *which the Federal entity will relocate its oper-*
20 *ations is—*

21 “(i) *consistent with obligations under-*
22 *taken by the United States in international*
23 *agreements and with United States national*
24 *security and public safety interests; and*

1 “(ii) suitable for the technical charac-
2 teristics of the band and consistent with
3 other uses of the band.

4 In exercising its authority under subparagraph
5 (D)(i), NTIA shall consult with the Secretary of
6 Defense, the Secretary of State, or other appro-
7 priate officers of the Federal Government.

8 “(3) *RIGHT TO RECLAIM.*—If within one year
9 after the relocation the Federal Government station
10 demonstrates to the Commission that the new facili-
11 ties or spectrum are not comparable to the facilities
12 or spectrum from which the Federal Government sta-
13 tion was relocated, the person seeking such relocation
14 must take reasonable steps to remedy any defects or
15 pay the Federal entity for the costs of returning the
16 Federal Government station to the spectrum from
17 which such station was relocated.

18 “(h) *FEDERAL ACTION TO EXPEDITE SPECTRUM*
19 *TRANSFER.*—Any Federal Government station which oper-
20 ates on electromagnetic spectrum that has been identified
21 for reallocation for mixed Federal and non-Federal use in
22 any reallocation report under subsection (a) shall, to the
23 maximum extent practicable through the use of the author-
24 ity granted under subsection (g) and any other applicable
25 provision of law, take action to relocate its spectrum use

1 to other frequencies that are reserved for Federal use or to
 2 consolidate its spectrum use with other Federal Government
 3 stations in a manner that maximizes the spectrum avail-
 4 able for non-Federal use. Subsection (c)(4) of this section
 5 shall not apply to the extent that a non-Federal user seeks
 6 to relocate or relocates a Federal power agency under sub-
 7 section (g).

8 “(i) *DEFINITION.*—For purposes of this section, the
 9 term ‘Federal entity’ means any department, agency, or
 10 other instrumentality of the Federal Government that uti-
 11 lizes a Government station license obtained under section
 12 305 of the 1934 Act (47 U.S.C. 305).”; and

13 (2) in section 114(a)(1), by striking “(a) or
 14 (d)(1)” and inserting “(a), (d)(1), or (f)”.

15 (d) *IDENTIFICATION AND REALLOCATION OF*
 16 *AUCTIONABLE FREQUENCIES.*—The National Tele-
 17 communications and Information Administration Organi-
 18 zation Act (47 U.S.C. 901 et seq.) is amended—

19 (1) in section 113(b)—

20 (A) by striking the heading of paragraph
 21 (1) and inserting “*INITIAL REALLOCATION RE-*
 22 *PORT.*—”;

23 (B) by inserting “in the first report re-
 24 quired by subsection (a)” after “recommend for
 25 reallocation” in paragraph (1);

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

3 (D) by inserting after paragraph (2) the fol-
4 lowing new paragraph:

5 “(3) *SECOND REALLOCATION REPORT.*—In ac-
6 cordance with the provisions of this section, the Sec-
7 retary shall recommend for reallocation in the second
8 report required by subsection (a), for use other than
9 by Federal Government stations under section 305 of
10 the 1934 Act (47 U.S.C. 305), a single frequency band
11 that spans not less than an additional 20 megahertz,
12 that is located below 3 gigahertz, and that meets the
13 criteria specified in paragraphs (1) through (5) of
14 subsection (a).”; and

15 (2) in section 115—

16 (A) in subsection (b), by striking “the re-
17 port required by section 113(a)” and inserting
18 “the initial reallocation report required by sec-
19 tion 113(a)”; and

20 (B) by adding at the end the following new
21 subsection:

22 “(c) *ALLOCATION AND ASSIGNMENT OF FREQUENCIES*
23 *IDENTIFIED IN THE SECOND REALLOCATION REPORT.*—
24 With respect to the frequencies made available for
25 reallocation pursuant to section 113(b)(3), the Commission

1 shall, not later than 1 year after receipt of the second
 2 reallocation report required by such section, prepare, sub-
 3 mit to the President and the Congress, and implement, a
 4 plan for the allocation and assignment under the 1934 Act
 5 of such frequencies. Such plan shall propose the immediate
 6 allocation and assignment of all such frequencies in accord-
 7 ance with section 309(j) of the 1934 Act (47 U.S.C.
 8 309(j)).”.

9 **TITLE IV—EDUCATION AND**
 10 **RELATED PROVISIONS**

11 **SEC. 4000. TABLE OF CONTENTS.**

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

TITLE IV—EDUCATION AND RELATED PROVISIONS

Sec. 4000. Table of contents.

Subtitle A—Higher Education

Sec. 4001. Short title; references; and general effective date.

Sec. 4002. Participation of institutions and administration of loan programs.

Sec. 4003. Loan terms and conditions.

Sec. 4004. Amendments affecting guaranty agencies.

Sec. 4005. Amendments affecting FFELP lenders and loan holders.

Sec. 4006. Connie Lee privatization.

Sec. 4007. Extension of program duration.

*Subtitle B—Provisions Relating to the Employee Retirement Income Security
 Act of 1974*

*Sec. 4101. Waiver of minimum period for joint and survivor annuity explanation
 before annuity starting date.*

13 **Subtitle A—Higher Education**

14 **SEC. 4001. SHORT TITLE; REFERENCES; AND GENERAL EF-**
 15 **ECTIVE DATE.**

16 (a) *SHORT TITLE.*—This subtitle may be cited as the
 17 “*Student Loan Reform Act of 1995*”.

1 (b) *REFERENCES.*—*Except as otherwise expressly pro-*
 2 *vided, whenever in this subtitle an amendment or repeal*
 3 *is expressed in terms of an amendment to, or repeal of, a*
 4 *section or other provision, the reference shall be considered*
 5 *to be made to a section or other provision of the Higher*
 6 *Education Act of 1965 (20 U.S.C. 1001 et seq.).*

7 (c) *GENERAL EFFECTIVE DATE.*—*Unless otherwise*
 8 *specified in this subtitle, the amendments made by this sub-*
 9 *title shall take effect on January 1, 1996.*

10 ***SEC. 4002. PARTICIPATION OF INSTITUTIONS AND ADMINIS-***
 11 ***TRATION OF LOAN PROGRAMS.***

12 (a) *LIMITATION ON PROPORTION OF LOANS MADE*
 13 *UNDER THE DIRECT LOAN PROGRAM.*—*Section 453(a) (20*
 14 *U.S.C. 1087c(a)) is amended—*

15 (1) *by amending paragraph (2) to read as fol-*
 16 *lows:*

17 “(2) *DETERMINATION OF NUMBER OF AGREE-*
 18 *MENTS.*—*Notwithstanding any other provision of law,*
 19 *the Secretary may enter into agreements under sub-*
 20 *sections (a) and (b) of section 454 with institutions*
 21 *for participation in the direct loan program under*
 22 *this part, subject to the following:*

23 “(A) *For academic year 1994–1995, loans*
 24 *made under this part shall represent not more*

1 *than 5 percent of new student loan volume for*
2 *such year.*

3 “(B) *For academic year 1995–1996, loans*
4 *made under this part, including Federal Direct*
5 *Consolidation Loans, shall represent not more*
6 *than 30 percent of the new student loan volume*
7 *for such year, except that the Secretary shall not*
8 *enter into such an agreement with an eligible in-*
9 *stitution that has not applied and been accepted*
10 *for participation in the direct loan program*
11 *under this part on or before September 30, 1995.*

12 “(C) *For academic year 1996–1997 and for*
13 *each succeeding academic year, loans made*
14 *under this part, including Federal Direct Con-*
15 *solidation Loans, shall represent not more than*
16 *10 percent of the new student loan volume for*
17 *such year, except that only the 102 eligible insti-*
18 *tutions that participated in the direct loan pro-*
19 *gram under this part for academic year 1994–*
20 *1995 shall be eligible to participate in such pro-*
21 *gram for academic year 1996–1997 and for each*
22 *succeeding academic year.”;*

23 (2) *by striking paragraph (3);*

24 (3) *by redesignating paragraph (4) as para-*
25 *graph (3); and*

1 (4) *in the second sentence of paragraph (3) (as*
 2 *redesignated by paragraph (3)), by striking “on the*
 3 *most recent program data available” and inserting*
 4 *“on data from the academic year preceding the aca-*
 5 *demie year for which the estimate is made”.*

6 (b) *ELIMINATION OF CONSCRIPTION.*—Section

7 *453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended—*

8 (1) *by striking subparagraph (B); and*

9 (2) *in subparagraph (A)—*

10 (A) *in clause (ii)—*

11 (i) *by striking “beginning”; and*

12 (ii) *by striking “clause (i); and” and*
 13 *inserting “subparagraph (A).”;*

14 (B) *by redesignating clause (ii) (as amend-*
 15 *ed by subparagraph (A)) as subparagraph (B);*
 16 *and*

17 (C) *by striking “(i) categorizing” and in-*
 18 *serting “categorizing”.*

19 (c) *CONTROL OF ADMINISTRATIVE EXPENSES.*—Sec-
 20 *tion 458 (20 U.S.C. 1087h) is amended—*

21 (1) *by amending subsection (a) to read as fol-*
 22 *lows:*

23 “(a) *EXPENSES.*—

24 “(1) *IN GENERAL.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), each fiscal year there shall be*
3 *available to the Secretary from funds not other-*
4 *wise appropriated, funds to be obligated for sub-*
5 *sidy costs under this part for the William D.*
6 *Ford Federal Direct Loan Program. There shall*
7 *also be available from funds not otherwise appro-*
8 *priated, funds to be obligated for indirect admin-*
9 *istrative expenses under this part and part B,*
10 *not to exceed (from such funds not otherwise ap-*
11 *propriated) \$260,000,000 for fiscal year 1994,*
12 *\$345,000,000 for fiscal year 1995, \$85,000,000*
13 *(and such sums as may be necessary for admin-*
14 *istrative cost allowances for guaranty agencies*
15 *for costs accrued prior to January 1, 1996) for*
16 *fiscal year 1996, and \$85,000,000 for each of the*
17 *fiscal years 1997 through 2002.*

18 “(B) *REDUCTION.*—*The amount authorized*
19 *to be made available for fiscal year 1997 under*
20 *subparagraph (A) shall be reduced by the*
21 *amount of any unobligated unexpended funds*
22 *available to carry out this subsection for any fis-*
23 *cal year prior to fiscal year 1996.*

24 “(2) *DIRECT AND INDIRECT ADMINISTRATIVE EX-*
25 *PENSES.*—

1 “(A) *DIRECT ADMINISTRATIVE EXPENSES.*—

2 “(i) *IN GENERAL.*—*For purposes of*
3 *this subsection the term ‘direct administra-*
4 *tive expenses’ means the cost under the Wil-*
5 *liam D. Ford Federal Direct Loan Program*
6 *of—*

7 “(I) *activities related to credit ex-*
8 *tension, loan origination, loan servic-*
9 *ing, management of contractors, and*
10 *payments to contractors, other govern-*
11 *ment entities, and program partici-*
12 *pants, under this part;*

13 “(II) *collection of delinquent loans*
14 *under this part; and*

15 “(III) *write-off and closeout of*
16 *loans under this part.*

17 “(ii) *CLARIFICATION WITH RESPECT*
18 *TO CERTAIN EXPENSES.*—*Such term does*
19 *not include the costs to the Department of*
20 *personnel, training, rent, printing, or other*
21 *administrative costs, associated with the ac-*
22 *tivities described in subclause (I), (II), or*
23 *(III) of clause (i).*

24 “(B) *INDIRECT ADMINISTRATIVE EX-*
25 *PENSES.*—*For purposes of this subsection the*

1 term ‘indirect administrative expenses’ means
2 the cost of—

3 “(i) personnel engaged in developing
4 program regulations, policy and adminis-
5 trative guidance;

6 “(ii) audits of institutions and con-
7 tractors;

8 “(iii) program reviews; and

9 “(iv) other oversight of the program
10 under this part or under part B.

11 “(3) *SUBSIDY COST.*—The term ‘subsidy cost’
12 means the estimated long-term cost to the Federal
13 Government of direct administrative expenses cal-
14 culated on a net present value basis.”; and

15 (2) by striking subsection (d).

16 (d) *DEFAULT RATE LIMITATIONS ON DIRECT LEND-*
17 *ING.*—

18 (1) *INSTITUTIONAL ELIGIBILITY BASED ON DE-*
19 *FAULT RATES.*—The first sentence of section
20 435(a)(2)(A) (20 U.S.C. 1085(a)(2)(A)) is amended
21 by inserting “or part D” after “under this part”.

22 (2) *COHORT DEFAULT RATE.*—Section 435(m)(1)
23 (20 U.S.C. 1085(m)(1)) is amended—

24 (A) in subparagraph (A)—

1 (i) by striking “428, 428A, or 428H”
2 and inserting “428, 428A, 428H, or part D
3 (other than Federal Direct PLUS Loans)”;
4 and

5 (ii) by striking “428C” and inserting
6 “428C or 455(g)”;

7 (B) in subparagraph (B)—

8 (i) by striking “only”; and

9 (ii) by inserting “and loans made
10 under part D determined by the Secretary
11 to be in default,” after “for insurance,”;
12 and

13 (C) in subparagraph (C), by striking
14 “428C” and inserting “428C or 455(g)”.

15 (3) *DEFAULT RATES AND INCOME CONTINGENT*
16 *REPAYMENT.*—Section 435(m) (20 U.S.C. 1085(m)) is
17 amended by adding at the end the following new
18 paragraph:

19 “(5) *DEFAULT RATE AND INCOME CONTINGENT*
20 *REPAYMENT.*—The Secretary shall prescribe regula-
21 tions for the calculation of default rates for loans that
22 are repaid pursuant to income contingent repayment
23 under this part, which regulations shall be com-
24 parable to regulations for the calculation of default

1 *rates for loans that are repaid pursuant to income*
2 *contingent repayment under part D.”.*

3 (4) *TERMINATION OF INSTITUTIONAL PARTICIPA-*
4 *TION.—Section 455 (20 U.S.C. 1087e) is amended by*
5 *adding at the end the following new subsection:*

6 “(l) *TERMINATION OF INSTITUTIONS FOR HIGH DE-*
7 *FAULT RATES.—*

8 “(1) *METHODOLOGY AND CRITERIA.—The Sec-*
9 *retary shall develop—*

10 “(A) *a methodology for the calculation of*
11 *institutional default rates under the loan pro-*
12 *grams operated pursuant to this part;*

13 “(B) *criteria for the initiation of termi-*
14 *nation proceedings on the basis of such default*
15 *rates; and*

16 “(C) *procedures for the conduct of such ter-*
17 *mination proceedings.*

18 “(2) *COMPARABILITY TO PART B.—In developing*
19 *the methodology, criteria, and procedures required by*
20 *paragraph (1), the Secretary, to the maximum extent*
21 *possible, shall establish standards for the termination*
22 *of institutions from participation in loan programs*
23 *under this part that are comparable to the standards*
24 *established for the termination of institutions from*
25 *participation in the loan programs under part B.*

1 *Such procedures shall include provisions for the ap-*
2 *peal of default rate calculations based on deficiencies*
3 *in the servicing of loans under this part that are com-*
4 *parable to the provisions for such appeals based on*
5 *deficiencies in the servicing of loans under part B.*

6 “(3) *PROMULGATION.*—*The methodology, cri-*
7 *teria, procedures and standards required by para-*
8 *graphs (1) and (2) shall be promulgated in final form*
9 *not later than 120 days after the date of enactment*
10 *of this paragraph.”.*

11 *(e) ELIMINATION OF TRANSITION TO DIRECT LOANS.*—
12 *The Act (20 U.S.C. 1001 et seq.) is further amended—*

13 *(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—*

14 *(A) in subparagraph (A), by striking “dur-*
15 *ing the transition” and all that follows through*
16 *“part D of this title”; and*

17 *(B) in subparagraph (B), by striking “sec-*
18 *tion 428(c)(10)(F)(v)” and inserting “section*
19 *428(c)(9)(F)(v)”;*

20 *(2) in section 422(g)(1) (20 U.S.C. 1072(g)(1))—*

21 *(A) in the first sentence, by striking “or the*
22 *program authorized by part D of this title”; and*

23 *(B) in the second sentence, by striking “or*
24 *the program authorized by part D of this title”;*

25 *(3) in section 428(c)(8) (20 U.S.C. 1078(c)(8))—*

1 (A) by striking subparagraph (B); and

2 (B) by striking “(A) If” and inserting “If”;

3 (4) in section 428(c)(9)(F)(vii) (20 U.S.C.

4 1078(c)(9)(F)(vii))—

5 (A) by inserting “and” before “to avoid dis-

6 ruption”; and

7 (B) by striking “, and to ensure an orderly

8 transition” and all that follows through the end

9 of such clause and inserting a period;

10 (5) in section 428(c)(9)(K) (20 U.S.C.

11 1078(c)(9)(K)), by striking “the progress of the tran-

12 sition from the loan programs under this part to”

13 and inserting “the integrity and administration of”;

14 (6) in section 428(e)(1)(B)(ii) (20 U.S.C.

15 1078(e)(1)(B)(ii)), by striking “during the transi-

16 tion” and all that follows through “under part D of

17 this title”;

18 (7) in section 428(e)(3) (20 U.S.C. 1078(e)(3)),

19 by striking “costs of transition” and inserting “indi-

20 rect administrative expenses”;

21 (8) in section 428(j)(3) (20 U.S.C. 1078(j)(3))—

22 (A) in the heading for paragraph (3), by

23 striking “DURING TRANSITION TO DIRECT LEND-

24 ING”; and

1 (B) in subparagraph (A), by striking “dur-
2 ing the transition” and all that follows through
3 “part D of this title”;

4 (9) in the heading for paragraph (2) of section
5 453(c) (20 U.S.C. 1087c(c)), by striking “TRANSI-
6 TION” and inserting “INSTITUTIONAL”;

7 (10) in the heading for paragraph (3) of section
8 453(c) (20 U.S.C. 1087c(c)), by striking “AFTER
9 TRANSITION”; and

10 (11) in section 456(b) (20 U.S.C. 1087f(b))—

11 (A) in paragraph (3), by inserting “and”
12 after the semicolon;

13 (B) by striking paragraph (4);

14 (C) by redesignating paragraph (5) as
15 paragraph (4); and

16 (D) in paragraph (4) (as redesignated by
17 subparagraph (C)), by striking “successful oper-
18 ation” and inserting “integrity and efficiency”.

19 (f) *FEEES FOR ORIGINATION SERVICES*.—Section 452
20 (20 U.S.C. 1087b) is amended—

21 (1) by striking subsection (b); and

22 (2) by redesignating subsections (c) and (d) as
23 subsections (b) and (c), respectively.

1 (g) *RISK SHARING*.—Section 428(n) (20 U.S.C.
2 1078(n)) is amended by adding at the end the following
3 new paragraph:

4 “(5) *APPLICABILITY TO PART D LOANS*.—The
5 provisions of this subsection shall apply to institu-
6 tions of higher education participating in direct lend-
7 ing under part D with respect to loans made under
8 such part, and for the purposes of this paragraph,
9 paragraph (4) shall be applied by inserting ‘or part
10 D’ after ‘this part.’”.

11 (h) *TECHNICAL AMENDMENT*.—Section 428(b)(1)(X)
12 (20 U.S.C. 1078(b)(1)(X)) is amended by striking “section
13 428(c)(10)” and inserting “section 428(c)(9)”.

14 **SEC. 4003. LOAN TERMS AND CONDITIONS.**

15 (a) *COMPARABILITY PROVISIONS*.—

16 (1) *IN GENERAL*.—Paragraph (1) of section
17 455(a) (20 U.S.C. 1087e(a)) is amended to read as
18 follows:

19 “(1) *PARALLEL TERMS, CONDITIONS, ELIGIBILITY*
20 *REQUIREMENTS, BENEFITS AND AMOUNTS*.—Unless
21 otherwise specified in this part, loans made to bor-
22 rowers under this part shall have the same terms,
23 conditions, deferments, forbearances, eligibility re-
24 quirements, and benefits, be subject to the same ad-
25 ministrative requirements for origination, payment

1 *and processing of applications, be available in the*
2 *same amounts, be subject to the same interest rates*
3 *and same amount of fees, and have the same repay-*
4 *ment plans, as the corresponding types of loans made*
5 *to borrowers under sections 428, 428B, and 428H.*
6 *The Secretary shall promulgate regulations imple-*
7 *menting this paragraph not later than 120 days after*
8 *the date of enactment of the Student Loan Reform Act*
9 *of 1995.”.*

10 (2) *CONFORMING AMENDMENTS.—Section*
11 *428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—*

12 (A) *in subparagraph (D)(ii), by inserting*
13 *“(except pursuant to a graduated, income-sen-*
14 *sitive, or income contingent repayment sched-*
15 *ule)” after “10 years”; and*

16 (B) *in subparagraph (E)(ii), by inserting*
17 *“(except pursuant to a graduated, income-sen-*
18 *sitive, or income contingent repayment sched-*
19 *ule)” after “10 years”.*

20 (b) *ABILITY OF PART D BORROWERS TO OBTAIN FED-*
21 *ERAL STAFFORD CONSOLIDATION LOANS.—Section*
22 *428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—*

23 (1) *by redesignating subparagraphs (B), (C),*
24 *and (D) as subparagraphs (C), (D), and (E), respec-*
25 *tively; and*

1 (2) *by inserting after subparagraph (A) the fol-*
2 *lowing new subparagraph:*

3 *“(B) made under part D of this title;”.*

4 (c) *ABILITY OF PART B BORROWERS TO OBTAIN FED-*
5 *ERAL DIRECT CONSOLIDATION LOANS.—Paragraph (5) of*
6 *section 428C(b) (20 U.S.C. 1078–3(b)) is amended to read*
7 *as follows:*

8 *“(5) DIRECT CONSOLIDATION LOANS FOR BOR-*
9 *ROWERS IN SPECIFIED CIRCUMSTANCES.—*

10 *“(A) Subject to subparagraphs (B) and (C)*
11 *of section 453(a)(2), the Secretary may offer a*
12 *borrower a Federal Direct Consolidation loan if*
13 *such borrower is otherwise eligible for a consoli-*
14 *dation loan pursuant to this section and such*
15 *borrower is—*

16 *“(i) unable to obtain a consolidation*
17 *loan from a lender with an agreement*
18 *under subsection (a)(1) that holds one of*
19 *such borrower’s loans under this part; or*

20 *“(ii) unable to obtain a consolidation*
21 *loan with income contingent repayment*
22 *terms from a lender with an agreement*
23 *under subsection (a)(1).*

24 *“(B) The Secretary shall establish appro-*
25 *priate certification procedures to verify the eligi-*

1 *bility of borrowers for consolidation loans under*
2 *this paragraph.*

3 “(C) *The Secretary shall not offer consolida-*
4 *tion loans under this paragraph if, in the Sec-*
5 *retary’s judgment, the Department does not have*
6 *the necessary origination and servicing arrange-*
7 *ments in place for such loans, or the projected*
8 *volume in such loans will be destabilizing to the*
9 *availability of loans otherwise available under*
10 *this part.”.*

11 (d) *INCOME CONTINGENT REPAYMENT IN THE FED-*
12 *ERAL FAMILY EDUCATION LOAN PROGRAM.—*

13 (1) *INSURANCE PROGRAM AGREEMENTS.—Sec-*
14 *tion 428(b)(1)(E)(i) (20 U.S.C. 1078(b)(1)(E)(i)) is*
15 *amended by striking “or income-sensitive repayment*
16 *schedule” and inserting “repayment schedule or an*
17 *income-sensitive repayment schedule, and may, at the*
18 *discretion of the lender, offer the borrower the option*
19 *of repaying the loan in accordance with an income*
20 *contingent repayment schedule,”.*

21 (2) *REPAYMENT SCHEDULES.—The matter pre-*
22 *ceding clause (i) of section 428C(c)(2)(A) (20 U.S.C.*
23 *1078–3(c)(2)(A)) is amended—*

24 (A) *in the first sentence, by striking “or in-*
25 *come-sensitive repayment schedules” and insert-*

1 ing “repayment schedules or income-sensitive re-
2 payment schedules, and may include, at the dis-
3 cretion of the lender, the establishment of income
4 contingent repayment schedules”; and

5 (B) in the second sentence, by striking “in-
6 come-sensitive” and inserting “graduated, in-
7 come-sensitive, or income contingent”.

8 (3) *COMPARABLE TERMS AND CONDITIONS.*—Sec-
9 tion 428(m) (20 U.S.C. 1078(m)) is amended by add-
10 ing at the end the following new paragraph:

11 “(3) *INCOME CONTINGENT REPAYMENT SCHED-*
12 *ULES.*—For the purpose of this part, income contin-
13 gent repayment schedules established pursuant to sub-
14 section (b)(1)(E)(i) and section 428C(c)(2)(A) shall
15 have terms and conditions comparable to the terms
16 and conditions established by the Secretary pursuant
17 to section 455(e)(4). The Secretary shall discharge or
18 cancel the indebtedness of borrowers that repay pursu-
19 ant to income contingent repayment under this part
20 to the same extent, and under the same circumstances,
21 as the Secretary discharges or cancels the indebtedness
22 of borrowers that repay pursuant to income contin-
23 gent repayment under part D.”.

24 (e) *PLUS PROGRAM REDUCTIONS.*—Section 428B(b)
25 (20 U.S.C. 1078–2(b)) is amended—

1 (1) *by striking “(b) LIMITATION BASED ON*
2 *NEED.—” and inserting the following:*

3 “(b) *ANNUAL LIMITS.—*

4 “(1) *LIMITATION BASED ON NEED.—*”;

5 (2) *by inserting before the last sentence thereof*
6 *the following:*

7 “(3) *LIMITATION COMPUTED ON BASIS OF AC-*
8 *TUAL PAYMENTS.—*”; *and*

9 (3) *by inserting before paragraph (3) (as des-*
10 *ignated by the amendment made by paragraph (2) of*
11 *this section) the following new paragraph:*

12 “(2) *DOLLAR LIMITATION.—Subject to para-*
13 *graph (1), the maximum amount parents may borrow*
14 *for one student in any academic year or its equiva-*
15 *lent (as defined by regulations of the Secretary) is*
16 *\$15,000.”.*

17 **SEC. 4004. AMENDMENTS AFFECTING GUARANTY AGENCIES.**

18 (a) *USE OF RESERVE FUNDS TO PURCHASE DE-*
19 *FAULTED LOANS.—Section 422 (20 U.S.C. 1072) is amend-*
20 *ed by adding at the end the following new subsection:*

21 “(h) *USE OF RESERVE FUNDS TO PURCHASE DE-*
22 *FAULTED LOANS.—*

23 “(1) *IN GENERAL.—Except as provided in para-*
24 *graph (2), a guaranty agency shall use not less than*
25 *50 percent of such agency’s reserve funds to purchase*

1 *and hold defaulted loans that are guaranteed by such*
 2 *agency and for which a claim for insurance is filed*
 3 *with such agency by an eligible lender. The amount*
 4 *of such purchases shall be considered as reserve funds*
 5 *under this section and used in the calculation of the*
 6 *minimum reserve level under section 428(c)(9).*

7 “(2) *SPECIAL RULE.—A guaranty agency shall*
 8 *not be required to use its reserve funds to purchase*
 9 *and hold defaulted loans in accordance with para-*
 10 *graph (1) to the extent that—*

11 “(A) *the dollar volume of insurance claims*
 12 *filed with such agency does not amount to 50*
 13 *percent of such agency’s available reserve funds;*

14 “(B) *such use is prohibited by State law; or*

15 “(C) *such use will compromise the ability of*
 16 *the guaranty agency to pay program expenses.”.*

17 (b) *EXTENSION OF PERIOD A GUARANTY AGENCY*
 18 *MUST HOLD A DEFAULTED LOAN.—*

19 (1) *EXEMPTION FOR EXTENDED HOLDING PE-*
 20 *RIOD.—The last sentence of section 428(c)(1)(A) (20*
 21 *U.S.C. 1078(c)(1)(A)) is amended by striking “A*
 22 *guaranty agency” and inserting “Except as provided*
 23 *in section 428K, a guaranty agency”.*

24 (2) *NEW EXTENDED HOLDING PERIOD PRO-*
 25 *GRAM.—*

1 (A) *AMENDMENT.*—*Part B of title IV (20*
2 *U.S.C. 1071 et seq.) is amended by inserting*
3 *after section 428J the following new section:*

4 “**SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RE-**
5 **SERVE FUNDS.**

6 “(a) *LOANS SUBJECT TO EXTENDED HOLDING PE-*
7 *RIOD.*—*Except as provided in subsection (b), a guaranty*
8 *agency shall file a claim for reimbursement with respect*
9 *to losses (resulting from the default of a borrower) subject*
10 *to reimbursement by the Secretary pursuant to section*
11 *428(c)(1) not less than 180 days nor more than 225 days*
12 *after the guaranty agency discharges such agency’s insur-*
13 *ance obligation on a loan insured under this part. Such*
14 *claim shall include losses on the unpaid principal and ac-*
15 *crued interest of any such loan, including interest accrued*
16 *from the date of such discharge to the date such agency files*
17 *the claim for reimbursement from the Secretary.*

18 “(b) *LOANS EXCLUDED FROM EXTENDED HOLDING.*—
19 *A guaranty agency may file a claim with respect to losses*
20 *subject to reimbursement by the Secretary pursuant to sec-*
21 *tion 428(c)(1) prior to 180 days after the date the guaranty*
22 *agency discharges such agency’s insurance obligation on a*
23 *loan insured under this part, if—*

1 “(1) such agency used 50 percent or more of such
2 agency’s reserve funds to purchase or hold loans in
3 accordance with section 422(h);

4 “(2) such claim is based on an inability to locate
5 the borrower and the guaranty agency certifies to the
6 Secretary that—

7 “(A) diligent attempts were made to locate
8 the borrower through the use of reasonable skip-
9 tracing techniques in accordance with section
10 428(c)(2)(G); and

11 “(B) such skip-tracing attempts to locate
12 the borrower were unsuccessful; or

13 “(3) the guaranty agency determines that the
14 borrower is unlikely to possess the financial resources
15 to begin repaying the loan prior to 180 days after de-
16 fault by the borrower.

17 “(c) *GUARANTY AGENCY EFFORTS DURING EXTENDED*
18 *HOLDING PERIOD.*—A guaranty agency shall attempt to
19 bring a loan described in subsection (a) into repayment sta-
20 tus during the period prior to 225 days after the date the
21 guaranty agency discharges its insurance obligation on
22 such loan, so that no claim for reimbursement by the Sec-
23 retary is necessary. Upon securing payments satisfactory
24 to the guaranty agency during such period, such agency
25 shall, if practicable, sell such loan to an eligible lender.

1 *Such loan shall not be sold to an eligible lender that the*
2 *guaranty agency determines has substantially failed to ex-*
3 *ercise the due diligence required of lenders under this part.*

4 “(d) *REGULATION PROHIBITED.*—*The Secretary shall*
5 *not promulgate regulations regarding the collection activity*
6 *of a guaranty agency with respect to a loan described in*
7 *subsection (a) for which reinsurance has not been paid*
8 *under section 428(c)(1).”.*

9 (B) *EFFECTIVE DATE.*—*The amendment*
10 *made by this paragraph shall apply with respect*
11 *to loans for which claims for insurance are filed*
12 *by eligible lenders on or after January 1, 1996.*

13 (c) *ADMINISTRATIVE COST ALLOWANCE.*—*Section*
14 *428(f)(1) (20 U.S.C. 1078(f)(1)) is amended—*

15 (1) *in the matter preceding clause (i) of subpara-*
16 *graph (A), by striking “For a fiscal year prior to fis-*
17 *cal year 1994, the” and inserting “The”; and*

18 (2) *by amending subparagraph (B) to read as*
19 *follows:*

20 “(B)(i) *The total amount of payments for any*
21 *fiscal year prior to fiscal year 1994 made under this*
22 *paragraph shall be equal to 1 percent of the total*
23 *principal amount of the loans upon which insurance*
24 *was issued under this part during such fiscal year by*
25 *such guaranty agency.*

1 “(ii) For the period beginning January 1, 1996
2 and ending September 30, 1996, and for each fiscal
3 year thereafter, each guaranty agency shall receive an
4 administrative cost allowance, payable quarterly, for
5 such fiscal year calculated on the basis of 0.85 percent
6 of the total principal amount of the loans upon which
7 insurance was issued under this part during such fis-
8 cal year by such guaranty agency.

9 “(iii) The guaranty agency shall be deemed to
10 have a contractual right against the United States to
11 receive payments according to the provisions of this
12 subparagraph. Payments shall be made promptly and
13 without administrative delay to any guaranty agency
14 submitting an accurate and complete application
15 therefor under this subparagraph.

16 “(iv) Notwithstanding clauses (ii) and (iii)—

17 “(I) for each of the fiscal years 1996
18 through 1998, the Secretary shall pay an aggre-
19 gate amount for such year of not more than
20 \$220,000,000 to all guaranty agencies receiving
21 administrative cost allowances under this sub-
22 paragraph; and

23 “(II) for each of the fiscal years 1999
24 through 2002, the Secretary shall pay an aggre-
25 gate amount for such year of not more than

1 \$180,000,000 to all guaranty agencies receiving
2 administrative cost allowances under this sub-
3 paragraph.”.

4 (d) *SECRETARY’S EQUITABLE SHARE OF COLLEC-*
5 *TIONS ON CONSOLIDATED DEFAULTED LOANS.*—Section
6 *428(c)(6)(A) (20 U.S.C. 1078(c)(6)(A)) is amended—*

7 (1) *in the matter preceding clause (i)—*

8 (A) *by inserting “or on behalf of” after*
9 *“made by”; and*

10 (B) *by inserting “, including payments*
11 *made to discharge loans made under this title to*
12 *obtain a consolidation loan pursuant to this part*
13 *or part D,” after “borrower”; and*

14 (2) *in clause (ii), by inserting after “an amount*
15 *equal to” the following: “—*

16 *“(I) for defaulted loans consoli-*
17 *dated pursuant to this part or part D*
18 *on or after January 1, 1996, 18.5 per-*
19 *cent of the balance of the principal, ac-*
20 *crued interest, and collection costs, out-*
21 *standing at the time of such consolida-*
22 *tion; or*

23 *“(II) for all other loans,”.*

24 (e) *RESERVE FUND REFORMS.*—

1 (1) *STRENGTHENING AND STABILIZING GUAR-*
2 *ANTY AGENCIES.—Section 428(c) (20 U.S.C. 1078(c))*
3 *is amended—*

4 (A) *in paragraph (9)(C)(ii), by striking “80*
5 *percent” and inserting “76 percent”; and*

6 (B) *in paragraph (9)(E)—*

7 (i) *in the matter preceding clause (i),*
8 *by striking “The Secretary may terminate*
9 *a” and inserting “After providing a guar-*
10 *anty agency notice and opportunity for a*
11 *hearing on the record, the Secretary may*
12 *terminate such”;*

13 (ii) *in clause (iv), by inserting “or”*
14 *after the semicolon;*

15 (iii) *by striking clause (vi); and*

16 (iv) *in clause (v), by striking “; or”*
17 *and inserting a period.*

18 (2) *ADDITIONAL AMENDMENTS.—Section 422 (20*
19 *U.S.C. 1072) is further amended—*

20 (A) *in the last sentence of subsection (a)(2),*
21 *by striking “Except as provided in section*
22 *428(c)(10)(E) or (F), such” and inserting “Ex-*
23 *cept as provided in subparagraph (E) or (F) of*
24 *section 428(c)(9), such”; and*

1 (B) in subsection (g), by amending para-
2 graph (4) to read as follows:

3 “(4) *DISPOSITION OF FUNDS RETURNED TO OR*
4 *RECOVERED BY THE SECRETARY.*—Any funds that
5 are returned to or otherwise recovered by the Sec-
6 retary pursuant to this subsection shall be returned to
7 the Treasury of the United States for purposes of re-
8 ducing the Federal debt and shall be deposited into
9 the special account under section 3113(d) of title 31,
10 United States Code.”.

11 (f) *ELIMINATION OF SUPPLEMENTAL PRECLAIMS AS-*
12 *SISTANCE.*—

13 (1) *AMENDMENT.*—Section 428(l) (20 U.S.C.
14 1078(l)) is amended—

15 (A) by striking paragraph (2); and

16 (B) by striking “(l) *PRECLAIMS*” and all
17 that follows through “Upon receipt” and insert-
18 ing the following:

19 “(l) *PRECLAIMS ASSISTANCE AND SUPPLEMENTAL*
20 *PRECLAIMS ASSISTANCE.*—Upon receipt”.

21 (2) *EFFECTIVE DATE.*—The amendment made by
22 this subsection shall apply to loans for which the first
23 delinquency occurs on or after January 1, 1996.

24 (g) *RESERVE RATIOS.*—Section 428(c)(9)(A) (20
25 U.S.C. 1078(c)(9)(A)) is amended—

1 (1) *in clause (i), by inserting “and” after the*
2 *semicolon;*

3 (2) *in clause (ii), by striking “; and” and insert-*
4 *ing a period; and*

5 (3) *by striking clause (iii).*

6 (h) *GUARANTY AGENCY REIMBURSEMENT.—*

7 (1) *IN GENERAL.—Section 428(c)(1) (20 U.S.C.*
8 *1078(c)(1)) is amended—*

9 (A) *in subparagraph (A), by striking “98*
10 *percent” and inserting “96 percent”; and*

11 (B) *in subparagraph (B)—*

12 (i) *in clause (i), by striking “88 per-*
13 *cent” and inserting “86 percent”; and*

14 (ii) *in clause (ii), by striking “78 per-*
15 *cent” and inserting “76 percent”.*

16 (2) *EFFECTIVE DATE.—The amendments made*
17 *by paragraph (1) shall apply with respect to loans for*
18 *which the first disbursement is made on or after Jan-*
19 *uary 1, 1996.*

20 **SEC. 4005. AMENDMENTS AFFECTING FFELP LENDERS AND**
21 **LOAN HOLDERS.**

22 (a) *RISK SHARING BY THE LOAN HOLDERS.—*

23 (1) *AMENDMENT.—Section 428(b)(1)(G) (20*
24 *U.S.C. 1078(b)(1)(G)) is amended by striking “not*
25 *less than 98 percent” and inserting “95 percent”.*

1 (2) *EFFECTIVE DATE.*—*The amendment made by*
2 *this subsection shall apply with respect to loans for*
3 *which the first disbursement is made on or after Jan-*
4 *uary 1, 1996.*

5 (b) *LENDERS-OF-LAST-RESORT.*—*Section 428(j)(2)*
6 *(20 U.S.C. 1078(j)(2)) is amended—*

7 (1) *in subparagraph (A), by striking “60 days”*
8 *and inserting “15 days”; and*

9 (2) *in subparagraph (B), by striking “two rejec-*
10 *tions from eligible lenders” and inserting “one rejec-*
11 *tion from an eligible lender”.*

12 (c) *EXCEPTIONAL PERFORMANCE INSURANCE REDUC-*
13 *TION.*—*Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is*
14 *amended—*

15 (1) *in the paragraph heading, by striking “100*
16 *PERCENT”; and*

17 (2) *by striking “100 percent” and inserting “95*
18 *percent (or 100 percent in the case of a lender-of-last-*
19 *resort)”.*

20 (d) *LOAN FEES FROM LENDERS.*—

21 (1) *AMENDMENT.*—*Section 438(d)(2) (20 U.S.C.*
22 *1087–1(d)(2)) is amended by striking “0.50 percent”*
23 *and inserting “0.80 percent”.*

24 (2) *EFFECTIVE DATE.*—*The amendment made by*
25 *this subsection shall apply with respect to loans for*

1 *which the first disbursement is made on or after Jan-*
2 *uary 1, 1996.*

3 *(e) LENDER AND HOLDER REBATE.—*

4 *(1) AMENDMENT.—Section 438 (20 U.S.C. 1078)*
5 *is amended by adding at the end the following new*
6 *subsection:*

7 *“(g) SUBSIDY REBATE ON STAFFORD AND PLUS*
8 *LOANS.—*

9 *“(1) REBATE.—Each holder of a subsidized or*
10 *unsubsidized Federal Stafford Loan under this part,*
11 *or a Federal PLUS loan under section 428B, shall*
12 *pay to the Secretary, on June 30 and December 31*
13 *of each year, a subsidy rebate in an amount equal to*
14 *0.035 percent of the unpaid principal amount of each*
15 *such loan that such holder holds during the repay-*
16 *ment period described in section 428(b)(7), except*
17 *that, notwithstanding subparagraphs (A), (B), and*
18 *(C) of section 428(b)(7), such holder shall pay a sub-*
19 *sidy rebate under this paragraph with respect to such*
20 *loan during any period of authorized forbearance.*

21 *“(2) PAYMENT OF REBATE.—The subsidy rebate*
22 *shall be paid, to the extent possible, by subtracting*
23 *from amounts owed such holder under section 438(b)*
24 *(after deducting from such amounts any amount owed*
25 *by such holder under section 438(d) for the quarters*

1 ending June 30 and December 31, as appropriate) the
2 amount of subsidy rebates owed by such holder. To the
3 extent the amounts owed such holder under section
4 438(b) (after making the deduction described in the
5 preceding sentence) are insufficient to pay in full the
6 subsidy rebates due from such holder, such holder
7 shall pay the insufficiency by check or wire transfer
8 of funds, in a manner determined by the Secretary.

9 “(3) *DEPOSIT.*—The Secretary shall deposit all
10 subsidy rebates collected under the second sentence of
11 paragraph (2) into the insurance fund established in
12 section 431.”.

13 (2) *EFFECTIVE DATE.*—The amendment made by
14 this subsection shall apply with respect to loans for
15 which the first disbursement is made on or after Jan-
16 uary 1, 1996.

17 (f) *SMALL LENDER AUDIT EXEMPTION.*—Section
18 428(b)(1)(U)(iii) (20 U.S.C. 1078(b)(1)(U)(iii)) is amend-
19 ed—

20 (1) by inserting “in the case of any lender that
21 originates or holds more than \$5,000,000 in principal
22 on loans made under this title in any fiscal year” be-
23 fore “for (I)”;

24 (2) in subclause (I), by inserting “such” before
25 “lender at least once”;

1 (3) in subclause (II), by inserting “such” before
2 “a lender that is audited”; and

3 (4) by striking “if the lender” and inserting “if
4 such lender”.

5 **SEC. 4006. CONNIE LEE PRIVATIZATION.**

6 (a) STATUS OF THE CORPORATION AND CORPORATE
7 POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

8 (1) STATUS OF THE CORPORATION.—The Cor-
9 poration shall not be an agency, instrumentality, or
10 establishment of the United States Government, nor a
11 Government corporation nor a Government controlled
12 corporation as such terms are defined in section 103
13 of title 5, United States Code. No action under section
14 1491 of title 28, United States Code (commonly
15 known as the Tucker Act) shall be allowable against
16 the United States based on the actions of the Corpora-
17 tion.

18 (2) CORPORATE POWERS.—The Corporation
19 shall be subject to the provisions of this section, and,
20 to the extent not inconsistent with this section, to the
21 District of Columbia Business Corporation Act (or
22 the comparable law of another State, if applicable).
23 The Corporation shall have the powers conferred upon
24 a corporation by the District of Columbia Business
25 Corporation Act (or such other applicable State law)

1 *as from time to time in effect in order to conduct its*
2 *affairs as a private, for-profit corporation and to*
3 *carry out its purposes and activities incidental there-*
4 *to. The Corporation shall have the power to enter into*
5 *contracts, to execute instruments, to incur liabilities,*
6 *to provide products and services, and to do all things*
7 *as are necessary or incidental to the proper manage-*
8 *ment of its affairs and the efficient operation of a*
9 *private, for-profit business.*

10 (3) *LIMITATION ON OWNERSHIP OF STOCK.—*

11 (A) *SECRETARY OF THE TREASURY.—The*
12 *Secretary of the Treasury, in completing the sale*
13 *of stock pursuant to subsection (c), may not sell*
14 *or issue the stock held by the Secretary of Edu-*
15 *cation to an agency, instrumentality, or estab-*
16 *lishment of the United States Government, or to*
17 *a Government corporation or a Government con-*
18 *trolled corporation as such terms are defined in*
19 *section 103 of title 5, United States Code, or to*
20 *a government-sponsored enterprise as such term*
21 *is defined in section 622 of title 2, United States*
22 *Code.*

23 (B) *STUDENT LOAN MARKETING ASSOCIA-*
24 *TION.—The Student Loan Marketing Association*
25 *shall not increase its share of the ownership of*

1 *the Corporation in excess of 42 percent of the*
2 *shares of stock of the Corporation outstanding on*
3 *the date of enactment of this Act. The Student*
4 *Loan Marketing Association shall not control the*
5 *operation of the Corporation, except that the*
6 *Student Loan Marketing Association may par-*
7 *ticipate in the election of directors as a share-*
8 *holder, and may continue to exercise its right to*
9 *appoint directors under section 754 of the High-*
10 *er Education Act of 1965 (20 U.S.C. 1132f-3) as*
11 *long as that section is in effect.*

12 *(C) PROHIBITION.—Until such time as the*
13 *Secretary of the Treasury sells the stock of the*
14 *Corporation owned by the Secretary of Edu-*
15 *cation pursuant to subsection (c), the Student*
16 *Loan Marketing Association shall not provide fi-*
17 *ancial support or guarantees to the Corpora-*
18 *tion.*

19 *(D) FINANCIAL SUPPORT OR GUARAN-*
20 *TEES.—After the Secretary of the Treasury sells*
21 *the stock of the Corporation owned by the Sec-*
22 *retary of Education pursuant to subsection (c),*
23 *the Student Loan Marketing Association may*
24 *provide financial support or guarantees to the*
25 *Corporation, if such support or guarantees are*

1 *subject to terms and conditions that are no more*
2 *advantageous to the Corporation than the terms*
3 *and conditions the Student Loan Marketing As-*
4 *sociation provides to other entities, including,*
5 *where applicable, other monoline financial guar-*
6 *anty corporations in which the Student Loan*
7 *Marketing Association has no ownership interest.*

8 (4) *NO FEDERAL GUARANTEE.—*

9 (A) *OBLIGATIONS INSURED BY THE COR-*
10 *PORATION.—*

11 (i) *FULL FAITH AND CREDIT OF THE*
12 *UNITED STATES.—No obligation that is in-*
13 *sured, guaranteed, or otherwise backed by*
14 *the Corporation shall be deemed to be an ob-*
15 *ligation that is guaranteed by the full faith*
16 *and credit of the United States.*

17 (ii) *STUDENT LOAN MARKETING ASSO-*
18 *CIATION.—No obligation that is insured,*
19 *guaranteed, or otherwise backed by the Cor-*
20 *poration shall be deemed to be an obligation*
21 *that is guaranteed by the Student Loan*
22 *Marketing Association.*

23 (iii) *SPECIAL RULE.—This paragraph*
24 *shall not affect the determination of whether*

1 *such obligation is guaranteed for purposes*
2 *of Federal income taxes.*

3 (B) *SECURITIES OFFERED BY THE COR-*
4 *PORATION.—No debt or equity securities of the*
5 *Corporation shall be deemed to be guaranteed by*
6 *the full faith and credit of the United States.*

7 (5) *DEFINITION.—The term “Corporation” as*
8 *used in this section means the College Construction*
9 *Loan Insurance Association as in existence on the*
10 *day before the date of enactment of this Act, and to*
11 *any successor corporation.*

12 (b) *RELATED PRIVATIZATION REQUIREMENTS.—*

13 (1) *NOTICE REQUIREMENTS.—*

14 (A) *IN GENERAL.—During the six-year pe-*
15 *riod following the date of enactment of this Act,*
16 *the Corporation shall include, in each of the Cor-*
17 *poration’s contracts for the insurance, guarantee,*
18 *or reinsurance of obligations, and in each docu-*
19 *ment offering debt or equity securities of the Cor-*
20 *poration a prominent statement providing notice*
21 *that—*

22 (i) *such obligations or such securities,*
23 *as the case may be, are not obligations of*
24 *the United States, nor are such obligations*

1 *guaranteed in any way by the full faith and*
2 *credit of the United States; and*

3 *(ii) the Corporation is not an instru-*
4 *mentality of the United States.*

5 *(B) ADDITIONAL NOTICE.—During the five-*
6 *year period following the sale of stock pursuant*
7 *to subsection (c)(1), in addition to the notice re-*
8 *quirements in subparagraph (A), the Corpora-*
9 *tion shall include, in each of the contracts and*
10 *documents referred to in such subparagraph, a*
11 *prominent statement providing notice that the*
12 *United States is not an investor in the Corpora-*
13 *tion.*

14 *(2) CORPORATE CHARTER.—The Corporation’s*
15 *charter shall be amended as necessary and without*
16 *delay to conform to the requirements of this section.*

17 *(3) CORPORATE NAME.—The name of the Cor-*
18 *poration, or of any direct or indirect subsidiary*
19 *thereof, may not contain the term “College Construc-*
20 *tion Loan Insurance Association”, or any substan-*
21 *tially similar variation thereof.*

22 *(4) ARTICLES OF INCORPORATION.—The Cor-*
23 *poration shall amend its articles of incorporation*
24 *without delay to reflect that one of the purposes of the*
25 *Corporation shall be to guarantee, insure, and rein-*

1 *sure bonds, leases, and other evidences of debt of edu-*
2 *cational institutions, including Historically Black*
3 *Colleges and Universities and other academic institu-*
4 *tions which are ranked in the lower investment grade*
5 *category using a nationally recognized credit rating*
6 *system.*

7 (5) *REQUIREMENTS UNTIL STOCK SALE.—Not-*
8 *withstanding subsection (d), the requirements of sec-*
9 *tions 754 and 760 of the Higher Education Act of*
10 *1965 (20 U.S.C. 1132f–3 and 1132f–9), as such sec-*
11 *tions were in effect on the day before the date of en-*
12 *actment of this Act, shall continue to be effective until*
13 *the day immediately following the date of closing of*
14 *the purchase of the Secretary of Education’s stock (or*
15 *the date of closing of the final purchase, in the case*
16 *of multiple transactions) pursuant to subsection*
17 *(c)(1) of this Act.*

18 (c) *SALE OF FEDERALLY OWNED STOCK.—*

19 (1) *SALE OF STOCK REQUIRED.—The Secretary*
20 *of the Treasury shall sell, pursuant to section 324 of*
21 *title 31, United States Code, the stock of the Corpora-*
22 *tion owned by the Secretary of Education as soon as*
23 *possible after the date of enactment of this Act, but*
24 *not later than six months after such date.*

1 (2) *PURCHASE BY THE CORPORATION.*—*In the*
2 *event that the Secretary of the Treasury is unable to*
3 *sell the stock, or any portion thereof, at a price ac-*
4 *ceptable to the Secretary of Education and the Sec-*
5 *retary of the Treasury, the Corporation shall pur-*
6 *chase, within 6 months after the date of enactment of*
7 *this Act, such stock at a price determined by the Sec-*
8 *retary of the Treasury and acceptable to the Corpora-*
9 *tion based on the independent appraisal of one or*
10 *more nationally recognized financial firms, except*
11 *that such price shall not exceed the value of the Sec-*
12 *retary of Education’s stock as determined by the Con-*
13 *gressional Budget Office in House Report 104–153,*
14 *dated June 22, 1995.*

15 (3) *REIMBURSEMENT OF COSTS OF SALE.*—*The*
16 *Secretary of the Treasury shall be reimbursed from*
17 *the proceeds of the sale of the stock under this sub-*
18 *section for all reasonable costs related to such sale, in-*
19 *cluding all reasonable expenses relating to one or*
20 *more independent appraisals under this subsection.*

21 (4) *ASSISTANCE BY THE CORPORATION.*—*The*
22 *Corporation shall provide such assistance as the Sec-*
23 *retary of the Treasury and the Secretary of Edu-*
24 *cation may require to facilitate the sale of the stock*
25 *under this subsection.*

1 (d) *REPEAL OF STATUTORY RESTRICTIONS AND RE-*
2 *LATED PROVISIONS.*—*Part D of title VII of the Higher*
3 *Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.*

4 **SEC. 4007. EXTENSION OF PROGRAM DURATION.**

5 *Part B of title IV (20 U.S.C. 1071 et seq.) is amend-*
6 *ed—*

7 (1) *in section 424(a) (20 U.S.C. 1074(a)), by*
8 *striking “1998” and inserting “2002”;*

9 (2) *in section 428(a)(5) (20 U.S.C.*
10 *1078(a)(5))—*

11 (A) *by striking “1998” and inserting*
12 *“2002”; and*

13 (B) *by striking “2002” and inserting*
14 *“2006”; and*

15 (3) *in section 428C(e) (20 U.S.C. 1078–3(e)), by*
16 *amending the first sentence to read as follows: “The*
17 *authority to make loans under this section expires at*
18 *the close of September 30, 2002.”.*

1 ***Subtitle B—Provisions Relating to***
 2 ***the Employee Retirement Income***
 3 ***Security Act of 1974***

4 ***SEC. 4101. WAIVER OF MINIMUM PERIOD FOR JOINT AND***
 5 ***SURVIVOR ANNUITY EXPLANATION BEFORE***
 6 ***ANNUTIIY STARTING DATE.***

7 (a) *GENERAL RULE.*—For purposes of section
 8 205(c)(3)(A) of the Employee Retirement Income Security
 9 Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period
 10 prescribed by the Secretary of the Treasury between the date
 11 that the explanation referred to in such section is provided
 12 and the annuity starting date shall not apply if waived
 13 by the participant and, if applicable, the participant’s
 14 spouse.

15 (b) *EFFECTIVE DATE.*—Subsection (a) shall apply to
 16 plan years beginning after December 31, 1995.

17 ***TITLE V—ENERGY AND NATURAL***
 18 ***RESOURCES PROVISIONS***

19 ***Subtitle A—Nuclear Regulatory***
 20 ***Commission Annual Charges***

21 ***SEC. 5001. NUCLEAR REGULATORY COMMISSION ANNUAL***
 22 ***CHARGES.***

23 Section 6101(a)(3) of the Omnibus Budget Reconcili-
 24 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by

1 *striking “September 30, 1998” and inserting “September*
2 *30, 2002”.*

3 ***Subtitle B—Department of Energy***
4 ***Assets***

5 ***CHAPTER 1—UNITED STATES***
6 ***ENRICHMENT CORPORATION***

7 ***SEC. 5201. SHORT TITLE.***

8 *This chapter may be cited as the “USEC Privatization*
9 *Act”.*

10 ***SEC. 5202. DEFINITIONS.***

11 *For purposes of this chapter:*

12 *(1) The term “AVLIS” means atomic vapor laser*
13 *isotope separation technology.*

14 *(2) The term “Corporation” means the United*
15 *States Enrichment Corporation and, unless the con-*
16 *text otherwise requires, includes the private corpora-*
17 *tion and any successor thereto following privatiza-*
18 *tion.*

19 *(3) The term “gaseous diffusion plants” means*
20 *the Paducah Gaseous Diffusion Plant at Paducah,*
21 *Kentucky and the Portsmouth Gaseous Diffusion*
22 *Plant at Piketon, Ohio.*

23 *(4) The term “highly enriched uranium” means*
24 *uranium enriched to 20 percent or more of the ura-*
25 *anium-235 isotope.*

1 (5) *The term “low-enriched uranium” means*
2 *uranium enriched to less than 20 percent of the ura-*
3 *anium–235 isotope, including that which is derived*
4 *from highly enriched uranium.*

5 (6) *The term “low-level radioactive waste” has*
6 *the meaning given such term in section 2(9) of the*
7 *Low-Level Radioactive Waste Policy Act (42 U.S.C.*
8 *2021b(9)).*

9 (7) *The term “private corporation” means the*
10 *corporation established under section 5205.*

11 (8) *The term “privatization” means the transfer*
12 *of ownership of the Corporation to private investors.*

13 (9) *The term “privatization date” means the*
14 *date on which 100 percent of the ownership of the*
15 *Corporation has been transferred to private investors.*

16 (10) *The term “public offering” means an under-*
17 *written offering to the public of the common stock of*
18 *the private corporation pursuant to section 5204.*

19 (11) *The “Russian HEU Agreement” means the*
20 *Agreement Between the Government of the United*
21 *States of America and the Government of the Russian*
22 *Federation Concerning the Disposition of Highly En-*
23 *riched Uranium Extracted from Nuclear Weapons,*
24 *dated February 18, 1993.*

1 (12) *The term “Secretary” means the Secretary*
2 *of Energy.*

3 (13) *The “Suspension Agreement” means the*
4 *Agreement to Suspend the Antidumping Investigation*
5 *on Uranium from the Russian Federation, as amend-*
6 *ed.*

7 (14) *The term “uranium enrichment” means the*
8 *separation of uranium of a given isotopic content*
9 *into 2 components, 1 having a higher percentage of a*
10 *fissile isotope and 1 having a lower percentage.*

11 **SEC. 5203. SALE OF THE CORPORATION.**

12 (a) *AUTHORIZATION.—The Board of Directors of the*
13 *Corporation, with the approval of the Secretary of the*
14 *Treasury, shall transfer the interest of the United States*
15 *in the United States Enrichment Corporation to the private*
16 *sector in a manner that provides for the long-term viability*
17 *of the Corporation, provides for the continuation by the*
18 *Corporation of the operation of the Department of Energy’s*
19 *gaseous diffusion plants, provides for the protection of the*
20 *public interest in maintaining a reliable and economical*
21 *domestic source of uranium mining, enrichment and con-*
22 *version services, and, to the extent not inconsistent with*
23 *such purposes, secures the maximum proceeds to the United*
24 *States.*

1 (b) *PROCEEDS.*—*Proceeds from the sale of the United*
2 *States' interest in the Corporation shall be deposited in the*
3 *general fund of the Treasury.*

4 **SEC. 5204. METHOD OF SALE.**

5 (a) *AUTHORIZATION.*—*The Board of Directors of the*
6 *Corporation, with the approval of the Secretary of the*
7 *Treasury, shall transfer ownership of the assets and obliga-*
8 *tions of the Corporation to the private corporation estab-*
9 *lished under section 5205 (which may be consummated*
10 *through a merger or consolidation effected in accordance*
11 *with, and having the effects provided under, the law of the*
12 *state of incorporation of the private corporation, as if the*
13 *Corporation were incorporated thereunder).*

14 (b) *BOARD DETERMINATION.*—*The Board, with the*
15 *approval of the Secretary of the Treasury, shall select the*
16 *method of transfer and establish terms and conditions for*
17 *the transfer that will provide the maximum proceeds to the*
18 *Treasury of the United States and will provide for the long-*
19 *term viability of the private corporation, the continued op-*
20 *eration of the gaseous diffusion plants, and the public inter-*
21 *est in maintaining reliable and economical domestic ura-*
22 *nium mining and enrichment industries.*

23 (c) *ADEQUATE PROCEEDS.*—*The Secretary of the*
24 *Treasury shall not allow the privatization of the Corpora-*
25 *tion unless before the sale date the Secretary of Treasury*

1 *determines that the method of transfer will provide the max-*
2 *imum proceeds to the Treasury consistent with the prin-*
3 *ciples set forth in section 5203(a).*

4 (d) *APPLICATION OF SECURITIES LAWS.*—Any offering
5 *or sale of securities by the private corporation shall be sub-*
6 *ject to the Securities Act of 1933 (15 U.S.C. 77a et seq.),*
7 *the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),*
8 *and the provisions of the Constitution and laws of any*
9 *State, territory, or possession of the United States relating*
10 *to transactions in securities.*

11 **SEC. 5205. ESTABLISHMENT OF PRIVATE CORPORATION.**

12 (a) *INCORPORATION.*—(1) *The directors of the Cor-*
13 *poration shall establish a private for-profit corporation*
14 *under the laws of a State for the purpose of receiving the*
15 *assets and obligations of the Corporation at privatization*
16 *and continuing the business operations of the Corporation*
17 *following privatization.*

18 (2) *The directors of the Corporation may serve as*
19 *incorporators of the private corporation and shall take all*
20 *steps necessary to establish the private corporation, includ-*
21 *ing the filing of articles of incorporation consistent with*
22 *the provisions of this chapter.*

23 (3) *Employees and officers of the Corporation (includ-*
24 *ing members of the Board of Directors) acting in accordance*
25 *with this section on behalf of the private corporation shall*

1 *be deemed to be acting in their official capacities as employ-*
2 *ees or officers of the Corporation for purposes of section 205*
3 *of title 18, United States Code.*

4 *(b) STATUS OF THE PRIVATE CORPORATION.—(1) The*
5 *private corporation shall not be an agency, instrumentality,*
6 *or establishment of the United States, a Government cor-*
7 *poration, or a Government-controlled corporation.*

8 *(2) Except as otherwise provided by this chapter, fi-*
9 *nancial obligations of the private corporation shall not be*
10 *obligations of, or guaranteed as to principal or interest by,*
11 *the Corporation or the United States, and the obligations*
12 *shall so plainly state.*

13 *(3) No action under section 1491 of title 28, United*
14 *States Code, shall be allowable against the United States*
15 *based on actions of the private corporation.*

16 *(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT*
17 *RESTRICTIONS.—Beginning on the privatization date, the*
18 *restrictions stated in section 207 (a), (b), (c), and (d) of*
19 *title 18, United States Code, shall not apply to the acts*
20 *of an individual done in carrying out official duties as a*
21 *director, officer, or employee of the private corporation, if*
22 *the individual was an officer or employee of the Corpora-*
23 *tion (including a director) continuously during the 45 days*
24 *prior to the privatization date.*

1 (d) *DISSOLUTION.*—*In the event that the privatization*
2 *does not occur, the Corporation will provide for the dissolu-*
3 *tion of the private corporation within 1 year of the private*
4 *corporation’s incorporation unless the Secretary of the*
5 *Treasury or his delegate, upon the Corporation’s request,*
6 *agrees to delay any such dissolution for an additional year.*

7 ***SEC. 5206. TRANSFERS TO THE PRIVATE CORPORATION.***

8 *Concurrent with privatization, the Corporation shall*
9 *transfer to the private corporation—*

10 (1) *the lease of the gaseous diffusion plants in*
11 *accordance with section 5207,*

12 (2) *all personal property and inventories of the*
13 *Corporation,*

14 (3) *all contracts, agreements, and leases under*
15 *section 5208(a),*

16 (4) *the Corporation’s right to purchase power*
17 *from the Secretary under section 5208(b),*

18 (5) *such funds in accounts of the Corporation*
19 *held by the Treasury or on deposit with any bank or*
20 *other financial institution as approved by the Sec-*
21 *retary of the Treasury, and*

22 (6) *all of the Corporation’s records, including all*
23 *of the papers and other documentary materials, re-*
24 *gardless of physical form or characteristics, made or*
25 *received by the Corporation.*

1 **SEC. 5207. LEASING OF GASEOUS DIFFUSION FACILITIES.**

2 (a) *TRANSFER OF LEASE.*—Concurrent with privat-
3 ization, the Corporation shall transfer to the private cor-
4 poration the lease of the gaseous diffusion plants and relat-
5 ed property for the remainder of the term of such lease in
6 accordance with the terms of such lease.

7 (b) *RENEWAL.*—The private corporation shall have the
8 exclusive option to lease the gaseous diffusion plants and
9 related property for additional periods following the expira-
10 tion of the initial term of the lease.

11 (c) *EXCLUSION OF FACILITIES FOR PRODUCTION OF*
12 *HIGHLY ENRICHED URANIUM.*—The Secretary shall not
13 lease to the private corporation any facilities necessary for
14 the production of highly enriched uranium but may, subject
15 to the requirements of the Atomic Energy Act of 1954 (42
16 U.S.C. 2011 *et seq.*), grant the Corporation access to such
17 facilities for purposes other than the production of highly
18 enriched uranium.

19 (d) *DOE RESPONSIBILITY FOR PREEXISTING CONDI-*
20 *TIONS.*—The payment of any costs of decontamination and
21 decommissioning, response actions, or corrective actions
22 with respect to conditions existing before July 1, 1993 at
23 the gaseous diffusion plants shall remain the sole respon-
24 sibility of the Secretary.

25 (e) *ENVIRONMENTAL AUDIT.*—For purposes of sub-
26 section (d), the conditions existing before July 1, 1993, at

1 *the gaseous diffusion plants shall be determined from the*
2 *environmental audit conducted pursuant to section 1403(e)*
3 *of the Atomic Energy Act of 1954 (42 U.S.C. 2297c-2(e)).*

4 (f) *TREATMENT UNDER PRICE-ANDERSON PROVI-*
5 *SIONS.—Any lease executed between the Secretary and the*
6 *Corporation or the private corporation, and any extension*
7 *or renewal thereof, under this section shall be deemed to*
8 *be a contract for purposes of section 170d. of the Atomic*
9 *Energy Act of 1954 (42 U.S.C. 2210(d)).*

10 (g) *WAIVER OF EIS REQUIREMENT.—The execution or*
11 *transfer of the lease between the Secretary and the Corpora-*
12 *tion or the private corporation, and any extension or re-*
13 *newal thereof, shall not be considered a major Federal ac-*
14 *tion significantly affecting the quality of the human envi-*
15 *ronment for purposes of section 102 of the National Envi-*
16 *ronmental Policy Act of 1969 (42 U.S.C. 4332).*

17 **SEC. 5208. TRANSFER OF CONTRACTS.**

18 (a) *TRANSFER OF CONTRACTS.—Concurrent with pri-*
19 *vatization, the Corporation shall transfer to the private cor-*
20 *poration all contracts, agreements, and leases, including all*
21 *uranium enrichment contracts, that were—*

22 (1) *transferred by the Secretary to the Corpora-*
23 *tion pursuant to section 1401(b) of the Atomic En-*
24 *ergy Act of 1954 (42 U.S.C. 2297c(b)), or*

1 (2) entered into by the Corporation before the
2 privatization date.

3 (b) *NONTRANSFERABLE POWER CONTRACTS.*—The
4 Corporation shall transfer to the private corporation the
5 right to purchase power from the Secretary under the power
6 purchase contracts for the gaseous diffusion plants executed
7 by the Secretary before July 1, 1993. The Secretary shall
8 continue to receive power for the gaseous diffusion plants
9 under such contracts and shall continue to resell such power
10 to the private corporation at cost during the term of such
11 contracts.

12 (c) *EFFECT OF TRANSFER.*—(1) Notwithstanding sub-
13 section (a), the United States shall remain obligated to the
14 parties to the contracts, agreements, and leases transferred
15 under subsection (a) for the performance of its obligations
16 under such contracts, agreements, or leases during their
17 terms. Performance of such obligations by the private cor-
18 poration shall be considered performance by the United
19 States.

20 (2) If a contract, agreement, or lease transferred under
21 subsection (a) is terminated, extended, or materially
22 amended after the privatization date—

23 (A) the private corporation shall be responsible
24 for any obligation arising under such contract, agree-

1 *ment, or lease after any extension or material amend-*
2 *ment, and*

3 *(B) the United States shall be responsible for*
4 *any obligation arising under the contract, agreement,*
5 *or lease before the termination, extension, or material*
6 *amendment.*

7 *(3) The private corporation shall reimburse the United*
8 *States for any amount paid by the United States under*
9 *a settlement agreement entered into with the consent of the*
10 *private corporation or under a judgment, if the settlement*
11 *or judgment—*

12 *(A) arises out of an obligation under a contract,*
13 *agreement, or lease transferred under subsection (a),*
14 *and*

15 *(B) arises out of actions of the private corpora-*
16 *tion between the privatization date and the date of a*
17 *termination, extension, or material amendment of*
18 *such contract, agreement, or lease.*

19 *(d) PRICING.—The Corporation may establish prices*
20 *for its products, materials, and services provided to cus-*
21 *tomers on a basis that will allow it to attain the normal*
22 *business objectives of a profit making corporation.*

23 **SEC. 5209. LIABILITIES.**

24 *(a) LIABILITY OF THE UNITED STATES.—(1) Except*
25 *as otherwise provided in this chapter, all liabilities arising*

1 *out of the operation of the uranium enrichment enterprise*
2 *before July 1, 1993, shall remain the direct liabilities of*
3 *the Secretary.*

4 (2) *Except as provided in subsection (a)(3) or other-*
5 *wise provided in a memorandum of agreement entered into*
6 *by the Corporation and the Office of Management and*
7 *Budget prior to the privatization date, all liabilities arising*
8 *out of the operation of the Corporation between July 1,*
9 *1993, and the privatization date shall remain the direct*
10 *liabilities of the United States.*

11 (3) *All liabilities arising out of the disposal of depleted*
12 *uranium generated by the Corporation between July 1,*
13 *1993, and the privatization date shall become the direct li-*
14 *abilities of the Secretary.*

15 (4) *Any stated or implied consent for the United*
16 *States, or any agent or officer of the United States, to be*
17 *sued by any person for any legal, equitable, or other relief*
18 *with respect to any claim arising from any action taken*
19 *by any agent or officer of the United States in connection*
20 *with the privatization of the Corporation is hereby with-*
21 *drawn.*

22 (5) *To the extent that any claim against the United*
23 *States under this section is of the type otherwise required*
24 *by Federal statute or regulation to be presented to a Federal*
25 *agency or official for adjudication or review, such claim*

1 *shall be presented to the Department of Energy in accord-*
2 *ance with procedures to be established by the Secretary.*
3 *Nothing in this paragraph shall be construed to impose on*
4 *the Department of Energy liability to pay any claim pre-*
5 *sented pursuant to this paragraph.*

6 (6) *The Attorney General shall represent the United*
7 *States in any action seeking to impose liability under this*
8 *subsection.*

9 (b) *LIABILITY OF THE CORPORATION.—Notwithstand-*
10 *ing any provision of any agreement to which the Corpora-*
11 *tion is a party, the Corporation shall not be considered in*
12 *breach, default, or violation of any agreement because of*
13 *the transfer of such agreement to the private corporation*
14 *under section 5208 or any other action the Corporation is*
15 *required to take under this chapter.*

16 (c) *LIABILITY OF THE PRIVATE CORPORATION.—Ex-*
17 *cept as provided in this chapter, the private corporation*
18 *shall be liable for any liabilities arising out of its oper-*
19 *ations after the privatization date.*

20 (d) *LIABILITY OF OFFICERS AND DIRECTORS.—(1) No*
21 *officer, director, employee, or agent of the Corporation shall*
22 *be liable in any civil proceeding to any party in connection*
23 *with any action taken in connection with the privatization*
24 *if, with respect to the subject matter of the action, suit, or*

1 *proceeding, such person was acting within the scope of his*
2 *employment.*

3 (2) *This subsection shall not apply to claims arising*
4 *under the Securities Act of 1933 (15 U.S.C. 77a. et seq.),*
5 *the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.),*
6 *or under the Constitution or laws of any State, territory,*
7 *or possession of the United States relating to transactions*
8 *in securities.*

9 **SEC. 5210. EMPLOYEE PROTECTIONS.**

10 (a) *CONTRACTOR EMPLOYEES.—(1) Privatization*
11 *shall not diminish the accrued, vested pension benefits of*
12 *employees of the Corporation's operating contractor at the*
13 *two gaseous diffusion plants.*

14 (2) *In the event that the private corporation termi-*
15 *nates or changes the contractor at either or both of the gase-*
16 *ous diffusion plants, the plan sponsor or other appropriate*
17 *fiduciary of the pension plan covering employees of the*
18 *prior operating contractor shall arrange for the transfer of*
19 *all plan assets and liabilities relating to accrued pension*
20 *benefits of such plan's participants and beneficiaries from*
21 *such plant to a pension plan sponsored by the new contrac-*
22 *tor or the private corporation or a joint-labor management*
23 *plan, as the case may be.*

24 (3) *In addition to any obligations arising under the*
25 *National Labor Relations Act (29 U.S.C. 151 et seq.), any*

1 *employer (including the private corporation if it operates*
2 *a gaseous diffusion plant without a contractor or any con-*
3 *tractor of the private corporation) at a gaseous diffusion*
4 *plant shall—*

5 *(A) abide by the terms of any unexpired collec-*
6 *tive bargaining agreement covering employees in bar-*
7 *gaining units at the plant and in effect on the privat-*
8 *ization date until the stated expiration or termi-*
9 *nation date of the agreement; or*

10 *(B) in the event a collective bargaining agree-*
11 *ment is not in effect upon the privatization date, have*
12 *the same bargaining obligations under section 8(d) of*
13 *the National Labor Relations Act (29 U.S.C. 158(d))*
14 *as it had immediately before the privatization date.*

15 *(4) If the private corporation replaces its operating*
16 *contractor at a gaseous diffusion plant, the new employer*
17 *(including the new contractor or the private corporation if*
18 *it operates a gaseous diffusion plant without a contractor)*
19 *shall—*

20 *(A) offer employment to non-management em-*
21 *ployees of the predecessor contractor to the extent that*
22 *their jobs still exist or they are qualified for new jobs,*
23 *and*

1 (B) abide by the terms of the predecessor contrac-
2 tor's collective bargaining agreement until the agree-
3 ment expires or a new agreement is signed.

4 (5) In the event of a plant closing or mass layoff (as
5 such terms are defined in section 2101(a)(2) and (3) of title
6 29, United States Code) at either of the gaseous diffusion
7 plants, the Secretary of Energy shall treat any adversely
8 affected employee of an operating contractor at either plant
9 who was an employee at such plant on July 1, 1993, as
10 a Department of Energy employee for purposes of sections
11 3161 and 3162 of the National Defense Authorization Act
12 for Fiscal Year 1993 (42 U.S.C. 7274h-7274i).

13 (6)(A) The Secretary and the private corporation shall
14 cause the post-retirement health benefits plan provider (or
15 its successor) to continue to provide benefits for eligible per-
16 sons, as described under subparagraph (B), employed by an
17 operating contractor at either of the gaseous diffusion
18 plants in an economically efficient manner and at substan-
19 tially the same level of coverage as eligible retirees are enti-
20 tled to receive on the privatization date.

21 (B) Persons eligible for coverage under subparagraph
22 (A) shall be limited to:

23 (i) persons who retired from active employment
24 at one of the gaseous diffusion plants on or before the
25 privatization date as vested participants in a pension

1 *plan maintained either by the Corporation's operat-*
2 *ing contractor or by a contractor employed prior to*
3 *July 1, 1993, by the Department of Energy to operate*
4 *a gaseous diffusion plant; and*

5 *(ii) persons who are employed by the Corpora-*
6 *tion's operating contractor on or before the privatiza-*
7 *tion date and are vested participants in a pension*
8 *plan maintained either by the Corporation's operat-*
9 *ing contractor or by a contractor employed prior to*
10 *July 1, 1993, by the Department of Energy to operate*
11 *a gaseous diffusion plant.*

12 *(C) The Secretary shall fund the entire cost of post-*
13 *retirement health benefits for persons who retired from em-*
14 *ployment with an operating contractor prior to July 1,*
15 *1993.*

16 *(D) The Secretary and the Corporation shall fund the*
17 *cost of post-retirement health benefits for persons who retire*
18 *from employment with an operating contractor on or after*
19 *July 1, 1993, in proportion to the retired person's years*
20 *and months of service at a gaseous diffusion plant under*
21 *their respective management.*

22 *(7)(A) Any suit under this subsection alleging a viola-*
23 *tion of an agreement between an employer and a labor orga-*
24 *nization shall be brought in accordance with section 301*
25 *of the Labor Management Relations Act (29 U.S.C. 185).*

1 (B) Any charge under this subsection alleging an un-
2 fair labor practice violative of section 8 of the National
3 Labor Relations Act (29 U.S.C. 158) shall be pursued in
4 accordance with section 10 of the National Labor Relations
5 Act (29 U.S.C. 160).

6 (C) Any suit alleging a violation of any provision of
7 this subsection, to the extent it does not allege a violation
8 of the National Labor Relations Act, may be brought in
9 any district court of the United States having jurisdiction
10 over the parties, without regard to the amount in con-
11 troversy or the citizenship of the parties.

12 (b) *FORMER FEDERAL EMPLOYEES.*—(1)(A) An em-
13 ployee of the Corporation that was subject to either the Civil
14 Service Retirement System (referred to in this section as
15 “CSRS”) or the Federal Employees’ Retirement System (re-
16 ferred to in this section as “FERS”) on the day imme-
17 diately preceding the privatization date shall elect—

18 (i) to retain the employee’s coverage under either
19 CSRS or FERS, as applicable, in lieu of coverage by
20 the Corporation’s retirement system, or

21 (ii) to receive a deferred annuity or lump-sum
22 benefit payable to a terminated employee under
23 CSRS or FERS, as applicable.

24 (B) An employee that makes an election under sub-
25 paragraph (A)(ii) shall have the option to transfer the bal-

1 *ance in the employee's Thrift Savings Plan account to a*
2 *defined contribution plan under the Corporation's retire-*
3 *ment system, consistent with applicable law and the terms*
4 *of the Corporation's defined contribution plan.*

5 *(2) The Corporation shall pay to the Civil Service Re-*
6 *tirement and Disability Fund—*

7 *(A) such employee deductions and agency con-*
8 *tributions as are required by sections 8334, 8422, and*
9 *8423 of title 5, United States Code, for those employ-*
10 *ees who elect to retain their coverage under either*
11 *CSRS or FERS pursuant to paragraph (1);*

12 *(B) such additional agency contributions as are*
13 *determined necessary by the Office of Personnel Man-*
14 *agement to pay, in combination with the sums under*
15 *subparagraph (A), the "normal cost" (determined*
16 *using dynamic assumptions) of retirement benefits for*
17 *those employees who elect to retain their coverage*
18 *under CSRS pursuant to paragraph (1), with the*
19 *concept of "normal cost" being used consistent with*
20 *generally accepted actuarial standards and prin-*
21 *ciples; and*

22 *(C) such additional amounts, not to exceed two*
23 *percent of the amounts under subparagraphs (A) and*
24 *(B), as are determined necessary by the Office of Per-*
25 *sonnel Management to pay the cost of administering*

1 *retirement benefits for employees who retire from the*
2 *Corporation after the privatization date under either*
3 *CSRS or FERS, for their survivors, and for survivors*
4 *of employees of the Corporation who die after the pri-*
5 *vatization date (which amounts shall be available to*
6 *the Office of Personnel Management as provided in*
7 *section 8348(a)(1)(B) of title 5, United States Code).*

8 *(3) The Corporation shall pay to the Thrift Savings*
9 *Fund such employee and agency contributions as are re-*
10 *quired by section 8432 of title 5, United States Code, for*
11 *those employees who elect to retain their coverage under*
12 *FERS pursuant to paragraph (1).*

13 *(4) Any employee of the Corporation who was subject*
14 *to the Federal Employee Health Benefits Program (referred*
15 *to in this section as “FEHBP”) on the day immediately*
16 *preceding the privatization date and who elects to retain*
17 *coverage under either CSRS or FERS pursuant to para-*
18 *graph (1) shall have the option to receive health benefits*
19 *from a health benefit plan established by the Corporation*
20 *or to continue without interruption coverage under the*
21 *FEHBP, in lieu of coverage by the Corporation’s health*
22 *benefit system.*

23 *(5) The Corporation shall pay to the Employees Health*
24 *Benefits Fund—*

1 (A) such employee deductions and agency con-
2 tributions as are required by section 8906(a)–(f) of
3 title 5, United States Code, for those employees who
4 elect to retain their coverage under FEHBP pursuant
5 to paragraph (4); and

6 (B) such amounts as are determined necessary
7 by the Office of Personnel Management under para-
8 graph (6) to reimburse the Office of Personnel Man-
9 agement for contributions under section 8906(g)(1) of
10 title 5, United States Code, for those employees who
11 elect to retain their coverage under FEHBP pursuant
12 to paragraph (4).

13 (6) The amounts required under paragraph (5)(B)
14 shall pay the Government contributions for retired employ-
15 ees who retire from the Corporation after the privatization
16 date under either CSRS or FERS, for survivors of such re-
17 tired employees, and for survivors of employees of the Cor-
18 poration who die after the privatization date, with said
19 amounts prorated to reflect only that portion of the total
20 service of such employees and retired persons that was per-
21 formed for the Corporation after the privatization date.

22 **SEC. 5211. OWNERSHIP LIMITATIONS.**

23 (a) *SECURITIES LIMITATIONS.*—No director, officer, or
24 employee of the Corporation may acquire any securities, or
25 any rights to acquire any securities of the private corpora-

1 *tion on terms more favorable than those offered to the gen-*
2 *eral public—*

3 *(1) in a public offering designed to transfer own-*
4 *ership of the Corporation to private investors,*

5 *(2) pursuant to any agreement, arrangement, or*
6 *understanding entered into before the privatization*
7 *date, or*

8 *(3) before the election of the directors of the pri-*
9 *vate corporation.*

10 *(b) OWNERSHIP LIMITATION.—Immediately following*
11 *the consummation of the transaction or series of trans-*
12 *actions pursuant to which 100 percent of the ownership of*
13 *the Corporation is transferred to private investors, and for*
14 *a period of three years thereafter, no person may acquire,*
15 *directly or indirectly, beneficial ownership of securities rep-*
16 *resenting more than 10 percent of the total votes of all out-*
17 *standing voting securities of the Corporation. The foregoing*
18 *limitation shall not apply to—*

19 *(1) any employee stock ownership plan of the*
20 *Corporation,*

21 *(2) members of the underwriting syndicate pur-*
22 *chasing shares in stabilization transactions in con-*
23 *nection with the privatization, or*

1 (3) *in the case of shares beneficially held in the*
2 *ordinary course of business for others, any commer-*
3 *cial bank, broker-dealer, or clearing agency.*

4 **SEC. 5212. URANIUM TRANSFERS AND SALES.**

5 (a) *TRANSFERS AND SALES BY THE SECRETARY.*—*The*
6 *Secretary shall not provide enrichment services or transfer*
7 *or sell any uranium (including natural uranium con-*
8 *centrates, natural uranium hexafluoride, or enriched ura-*
9 *nium in any form) to any person except as consistent with*
10 *this section.*

11 (b) *RUSSIAN HEU.*—(1) *On or before December 31,*
12 *1996, the United States Executive Agent under the Russian*
13 *HEU Agreement shall transfer to the Secretary without*
14 *charge title to an amount of uranium hexafluoride equiva-*
15 *lent to the natural uranium component of low-enriched ura-*
16 *nium derived from at least 18 metric tons of highly enriched*
17 *uranium purchased from the Russian Executive Agent*
18 *under the Russian HEU Agreement. The quantity of such*
19 *uranium hexafluoride delivered to the Secretary shall be*
20 *based on a tails assay of 0.30 U²³⁵. Uranium hexafluoride*
21 *transferred to the Secretary pursuant to this paragraph*
22 *shall be deemed under United States law for all purposes*
23 *to be of Russian origin.*

24 (2) *Within 7 years of the date of enactment of this*
25 *Act, the Secretary shall sell, and receive payment for, the*

1 uranium hexafluoride transferred to the Secretary pursuant
2 to paragraph (1). Such uranium hexafluoride shall be
3 sold—

4 (A) at any time for use in the United States for
5 the purpose of overfeeding;

6 (B) at any time for end use outside the United
7 States;

8 (C) in 1995 and 1996 to the Russian Executive
9 Agent at the purchase price for use in matched sales
10 pursuant to the Suspension Agreement; or,

11 (D) in calendar year 2001 for consumption by
12 end users in the United States not prior to January
13 1, 2002, in volumes not to exceed 3,000,000 pounds
14 U_3O_8 equivalent per year.

15 (3) With respect to all enriched uranium delivered to
16 the United States Executive Agent under the Russian HEU
17 Agreement on or after January 1, 1997, the United States
18 Executive Agent shall, upon request of the Russian Execu-
19 tive Agent, enter into an agreement to deliver concurrently
20 to the Russian Executive Agent an amount of uranium
21 hexafluoride equivalent to the natural uranium component
22 of such uranium. An agreement executed pursuant to a re-
23 quest of the Russian Executive Agent, as contemplated in
24 this paragraph, may pertain to any deliveries due during
25 any period remaining under the Russian HEU Agreement.

1 *The quantity of such uranium hexafluoride delivered to the*
2 *Russian Executive Agent shall be based on a tails assay*
3 *of 0.30 U²³⁵. Title to uranium hexafluoride delivered to the*
4 *Russian Executive Agent pursuant to this paragraph shall*
5 *transfer to the Russian Executive Agent upon delivery of*
6 *such material to the Russian Executive Agent, with such*
7 *delivery to take place at a North American facility des-*
8 *ignated by the Russian Executive Agent. Uranium*
9 *hexafluoride delivered to the Russian Executive Agent pur-*
10 *suant to this paragraph shall be deemed under U.S. law*
11 *for all purposes to be of Russian origin. Such uranium*
12 *hexafluoride may be sold to any person or entity for deliv-*
13 *ery and use in the United States only as permitted in sub-*
14 *sections (b)(5), (b)(6) and (b)(7) of this section.*

15 (4) *In the event that the Russian Executive Agent does*
16 *not exercise its right to enter into an agreement to take de-*
17 *livery of the natural uranium component of any low-en-*
18 *riched uranium, as contemplated in paragraph (3), within*
19 *90 days of the date such low-enriched uranium is delivered*
20 *to the United States Executive Agent, or upon request of*
21 *the Russian Executive Agent, then the United States Execu-*
22 *tive Agent shall engage an independent entity through a*
23 *competitive selection process to auction an amount of ura-*
24 *nium hexafluoride or U₃O₈ (in the event that the conversion*
25 *component of such hexafluoride has previously been sold)*

1 *equivalent to the natural uranium component of such low-*
2 *enriched uranium. An agreement executed pursuant to a*
3 *request of the Russian Executive Agent, as contemplated in*
4 *this paragraph, may pertain to any deliveries due during*
5 *any period remaining under the Russian HEU Agreement.*
6 *Such independent entity shall sell such uranium*
7 *hexafluoride in one or more lots to any person or entity*
8 *to maximize the proceeds from such sales, for disposition*
9 *consistent with the limitations set forth in this subsection.*
10 *The independent entity shall pay to the Russian Executive*
11 *Agent the proceeds of any such auction less all reasonable*
12 *transaction and other administrative costs. The quantity*
13 *of such uranium hexafluoride auctioned shall be based on*
14 *a tails assay of 0.30 U235. Title to uranium hexafluoride*
15 *auctioned pursuant to this paragraph shall transfer to the*
16 *buyer of such material upon delivery of such material to*
17 *the buyer. Uranium hexafluoride auctioned pursuant to this*
18 *paragraph shall be deemed under United States law for all*
19 *purposes to be of Russian origin.*

20 *(5) Except as provided in paragraphs (6) and (7), ura-*
21 *nium hexafluoride delivered to the Russian Executive Agent*
22 *under paragraph (3) or auctioned pursuant to paragraph*
23 *(4), may not be delivered for consumption by end users in*
24 *the United States either directly or indirectly prior to Jan-*

1 uary 1, 1998, and thereafter only in accordance with the
2 following schedule:

Annual maximum deliveries to end users

Year:	(millions lbs. U_3O_8 equivalent)
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20.

3 (6) Uranium hexafluoride delivered to the Russian Ex-
4 ecutive Agent under paragraph (3) or auctioned pursuant
5 to paragraph (4) may be sold at any time as Russian-ori-
6 gin natural uranium in a matched sale pursuant to the
7 Suspension Agreement, and in such case shall not be count-
8 ed against the annual maximum deliveries set forth in
9 paragraph (5).

10 (7) Uranium hexafluoride delivered to the Russian Ex-
11 ecutive Agent under paragraph (3) or auctioned pursuant
12 to paragraph (4) may be sold at any time for use in the
13 United States for the purpose of overfeeding in the oper-
14 ations of enrichment facilities.

15 (8) Nothing in this subsection (b) shall restrict the sale
16 of the conversion component of such uranium hexafluoride.

17 (9) The Secretary of Commerce shall have responsibil-
18 ity for the administration and enforcement of the limita-

1 tions set forth in this subsection. The Secretary of Com-
2 merce may require any person to provide any certifications,
3 information, or take any action that may be necessary to
4 enforce these limitations. The United States Customs Serv-
5 ice shall maintain and provide any information required
6 by the Secretary of Commerce and shall take any action
7 requested by the Secretary of Commerce which is necessary
8 for the administration and enforcement of the uranium de-
9 livery limitations set forth in this section.

10 (10) The President shall monitor the actions of the
11 United States Executive Agent under the Russian HEU
12 Agreement and shall report to the Congress not later than
13 December 31 of each year on the effect the low-enriched ura-
14 nium delivered under the Russian HEU Agreement is hav-
15 ing on the domestic uranium mining, conversion, and en-
16 richment industries, and the operation of the gaseous diffu-
17 sion plants. Such report shall include a description of ac-
18 tions taken or proposed to be taken by the President to pre-
19 vent or mitigate any material adverse impact on such in-
20 dustries or any loss of employment at the gaseous diffusion
21 plants as a result of the Russian HEU Agreement.

22 (c) TRANSFERS TO THE CORPORATION.—(1) The Sec-
23 retary shall transfer to the Corporation without charge up
24 to 50 metric tons of enriched uranium and up to 7,000 met-

1 ric tons of natural uranium from the Department of Ener-
2 gy's stockpile, subject to the restrictions in subsection (c)(2).

3 (2) The Corporation shall not deliver for commercial
4 end use in the United States—

5 (A) any of the uranium transferred under this
6 subsection before January 1, 1998;

7 (B) more than 10 percent of the uranium (by
8 uranium hexafluoride equivalent content) transferred
9 under this subsection or more than 4,000,000 pounds,
10 whichever is less, in any calendar year after 1997; or

11 (C) more than 800,000 separative work units
12 contained in low-enriched uranium transferred under
13 this subsection in any calendar year.

14 (d) INVENTORY SALES.—(1) In addition to the trans-
15 fers authorized under subsections (c) and (e), the Secretary
16 may, from time to time, sell natural and low-enriched ura-
17 nium (including low-enriched uranium derived from highly
18 enriched uranium) from the Department of Energy's stock-
19 pile.

20 (2) Except as provided in subsections (b), (c), and (e),
21 no sale or transfer of natural or low-enriched uranium shall
22 be made unless—

23 (A) the President determines that the material is
24 not necessary to national security needs,

1 (B) the Secretary determines that the sale of the
2 material will not have an adverse material impact on
3 the domestic uranium mining, conversion, or enrich-
4 ment industry, taking into account the sales of ura-
5 nium under the Russian HEU Agreement and the
6 Suspension Agreement, and

7 (C) the price paid to the Secretary will not be
8 less than the fair market value of the material.

9 (e) **GOVERNMENT TRANSFERS.**—Notwithstanding sub-
10 section (d)(2), the Secretary may transfer or sell enriched
11 uranium—

12 (1) to a Federal agency if the material is trans-
13 ferred for the use of the receiving agency without any
14 resale or transfer to another entity and the material
15 does not meet commercial specifications;

16 (2) to any person for national security purposes,
17 as determined by the Secretary; or

18 (3) to any State or local agency or nonprofit,
19 charitable, or educational institution for use other
20 than the generation of electricity for commercial use.

21 (f) **SAVINGS PROVISION.**—Nothing in this chapter shall
22 be read to modify the terms of the Russian HEU Agreement.

23 **SEC. 5213. LOW-LEVEL WASTE.**

24 (a) **RESPONSIBILITY OF DOE.**—(1) The Secretary, at
25 the request of the generator, shall accept for disposal low-

1 level radioactive waste, including depleted uranium if it
2 were ultimately determined to be low-level radioactive
3 waste, generated by the Corporation as a result of the oper-
4 ations of the gaseous diffusion plants or as a result of the
5 treatment of such wastes at a location other than a gaseous
6 diffusion plant. The terms and conditions for such service
7 shall be no more favorable than those the Secretary offers
8 any other generator of such wastes generated by uranium
9 enrichment plants licensed by the Nuclear Regulatory Com-
10 mission.

11 (2) The Secretary shall recover the cost of providing
12 the service in paragraph (1), including a pro rata share
13 of any capital costs, by charging the Corporation a fee for
14 such service in an amount equal to the price charged ura-
15 nium enrichment plants licensed by the Nuclear Regulatory
16 Commission, but in no event shall the Secretary charge any
17 generator more than an amount equal to that which would
18 be charged by commercial, state, regional, or interstate com-
19 pact entities for disposal of such waste.

20 (b) AGREEMENTS WITH OTHER PERSONS.—The Cor-
21 poration or any other generator may also enter into agree-
22 ments for the disposal of low-level radioactive waste subject
23 to subsection (a) with any person other than the Secretary
24 that is authorized by applicable laws and regulations to dis-
25 pose of such wastes, but shall have no authority under this

1 *or any other law to require a State or interstate compact*
2 *to treat, store, or dispose of such waste in a State or inter-*
3 *state compact facility without the State or compact's con-*
4 *sent.*

5 **SEC. 5214. AVLIS.**

6 (a) *EXCLUSIVE RIGHT TO COMMERCIALIZE.*—*The*
7 *Corporation shall have the exclusive commercial right to de-*
8 *ploy and use any AVLIS patents, processes, and technical*
9 *information owned or controlled by the Government, upon*
10 *completion of a royalty agreement with the Secretary.*

11 (b) *TRANSFER OF RELATED PROPERTY TO CORPORA-*
12 *TION.*—

13 (1) *IN GENERAL.*—*To the extent requested by the*
14 *Corporation and subject to the requirements of the*
15 *Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.),*
16 *the President shall transfer without charge to the Cor-*
17 *poration all of the right, title, or interest in and to*
18 *property owned by the United States under control or*
19 *custody of the Secretary that is directly related to and*
20 *materially useful in the performance of the Corpora-*
21 *tion's purposes regarding AVLIS and alternative*
22 *technologies for uranium enrichment, including—*

23 (A) *facilities, equipment, and materials for*
24 *research, development, and demonstration activi-*
25 *ties; and*

1 (B) all other facilities, equipment, mate-
2 rials, processes, patents, technical information of
3 any kind, contracts, agreements, and leases.

4 (2) *EXCEPTION.*—Facilities, real estate, improve-
5 ments, and equipment related to the gaseous diffusion,
6 and gas centrifuge, uranium enrichment programs of
7 the Secretary shall not transfer under paragraph
8 (1)(B).

9 (3) *EXPIRATION OF TRANSFER AUTHORITY.*—The
10 President's authority to transfer property under this
11 subsection shall expire upon the privatization date.

12 (c) *LIABILITY FOR PATENT AND RELATED CLAIMS.*—
13 With respect to any right, title, or interest provided to the
14 Corporation under subsection (a) or (b), the Corporation
15 shall have sole liability for any payments made or awards
16 under section 157 b. (3) of the Atomic Energy Act of 1954
17 (42 U.S.C. 2187(b)(3)), or any settlements or judgments in-
18 volving claims for alleged patent infringement. Any royalty
19 agreement under subsection (a) of this section shall provide
20 for a reduction of royalty payments to the Secretary to off-
21 set any payments, awards, settlements, or judgments under
22 this subsection.

23 **SEC. 5215. APPLICATION OF CERTAIN LAWS.**

24 (a) *OSHA.*—(1) As of the privatization date, the pri-
25 vate corporation shall be subject to and comply with the

1 *Occupational Safety and Health Act of 1970 (29 U.S.C.*
2 *651 et seq.).*

3 (2) *The Nuclear Regulatory Commission and the Occu-*
4 *pational Safety and Health Administration shall, within*
5 *90 days after the date of enactment of this Act, enter into*
6 *a memorandum of agreement to govern the exercise of their*
7 *authority over occupational safety and health hazards at*
8 *the gaseous diffusion plants, including inspection, inves-*
9 *tigation, enforcement, and rulemaking relating to such haz-*
10 *ards.*

11 (b) *ANTITRUST LAWS.—For purposes of the antitrust*
12 *laws, the performance by the private corporation of a*
13 *“matched import” contract under the Suspension Agree-*
14 *ment shall be considered to have occurred prior to the pri-*
15 *vatization date, if at the time of privatization, such con-*
16 *tract had been agreed to by the parties in all material terms*
17 *and confirmed by the Secretary of Commerce under the Sus-*
18 *pension Agreement.*

19 (c) *ENERGY REORGANIZATION ACT REQUIREMENTS.—*
20 (1) *The private corporation and its contractors and sub-*
21 *contractors shall be subject to the provisions of section 211*
22 *of the Energy Reorganization Act of 1974 (42 U.S.C. 5851)*
23 *to the same extent as an employer subject to such section.*

24 (2) *With respect to the operation of the facilities leased*
25 *by the private corporation, section 206 of the Energy Reor-*

1 *ganization Act of 1974 (42 U.S.C. 5846) shall apply to the*
2 *directors and officers of the private corporation.*

3 **SEC. 5216. AMENDMENTS TO THE ATOMIC ENERGY ACT.**

4 (a) *REPEAL.—(1) Chapters 22 through 26 of the Atom-*
5 *ic Energy Act of 1954 (42 U.S.C. 2297–2297e-7) are re-*
6 *pealed as of the privatization date.*

7 (2) *The table of contents of such Act is amended as*
8 *of the privatization date by striking the items referring to*
9 *sections repealed by paragraph (1).*

10 (b) *NRC LICENSING.—(1) Section 11v. of the Atomic*
11 *Energy Act of 1954 (42 U.S.C. 2014v.) is amended by strik-*
12 *ing “or the construction and operation of a uranium en-*
13 *richment facility using Atomic Vapor Laser Isotope Sepa-*
14 *ration technology”.*

15 (2) *Section 193 of the Atomic Energy Act of 1954 (42*
16 *U.S.C. 2243) is amended by adding at the end the following:*

17 “(f) *LIMITATION.—No license or certificate of compli-*
18 *ance may be issued to the United States Enrichment Cor-*
19 *poration or its successor under this section or sections 53,*
20 *63, or 1701, if the Commission determines that—*

21 “(1) *the Corporation is owned, controlled, or*
22 *dominated by an alien, a foreign corporation, or a*
23 *foreign government; or*

24 “(2) *the issuance of such a license or certificate*
25 *of compliance would be inimical to—*

1 “(A) the common defense and security of the
2 United States; or

3 “(B) the maintenance of a reliable and eco-
4 nomical domestic source of enrichment services.”.

5 (3) Section 1701(c)(2) of the Atomic Energy Act of
6 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

7 “(2) *PERIODIC APPLICATION FOR CERTIFICATE*
8 *OF COMPLIANCE.*—The Corporation shall apply to the
9 Nuclear Regulatory Commission for a certificate of
10 compliance under paragraph (1) periodically, as de-
11 termined by the Commission, but not less than every
12 5 years. The Commission shall review any such appli-
13 cation and any determination made under subsection
14 (b)(2) shall be based on the results of any such re-
15 view.”.

16 (4) Section 1702(a) of the Atomic Energy Act of 1954
17 (42 U.S.C. 2297f-1(a)) is amended—

18 (1) by striking “other than” and inserting “in-
19 cluding”, and

20 (2) by striking “sections 53 and 63” and insert-
21 ing “sections 53, 63, and 193”.

22 (c) *JUDICIAL REVIEW OF NRC ACTIONS.*—Section
23 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b))
24 is amended to read as follows:

1 *“b. The following Commission actions shall be subject*
2 *to judicial review in the manner prescribed in chapter 158*
3 *of title 28, United States Code and chapter 7 of title 5,*
4 *United States Code:*

5 *“(1) Any final order entered in any proceeding*
6 *of the kind specified in subsection (a).*

7 *“(2) Any final order allowing or prohibiting a*
8 *facility to begin operating under a combined con-*
9 *struction and operating license.*

10 *“(3) Any final order establishing by regulation*
11 *standards to govern the Department of Energy’s gase-*
12 *ous diffusion uranium enrichment plants, including*
13 *any such facilities leased to a corporation established*
14 *under the USEC Privatization Act.*

15 *“(4) Any final determination under section*
16 *1701(c) relating to whether the gaseous diffusion*
17 *plants, including any such facilities leased to a cor-*
18 *poration established under the USEC Privatization*
19 *Act, are in compliance with the Commission’s stand-*
20 *ards governing the gaseous diffusion plants and all*
21 *applicable laws.”.*

22 *(d) CIVIL PENALTIES.—Section 234 a. of the Atomic*
23 *Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—*

24 *(1) striking “any licensing provision of section*
25 *53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109”*

1 and inserting: “any licensing or certification provi-
2 sion of section 53, 57, 62, 63, 81, 82, 101, 103, 104,
3 107, 109, or 1701”; and

4 (2) by striking “any license issued thereunder”
5 and inserting: “any license or certification issued
6 thereunder”.

7 (e) *REFERENCES TO THE CORPORATION.*—Following
8 the privatization date, all references in the Atomic Energy
9 Act of 1954 to the United States Enrichment Corporation
10 shall be deemed to be references to the private corporation.

11 **SEC. 5217. AMENDMENTS TO OTHER LAWS.**

12 (a) *DEFINITION OF GOVERNMENT CORPORATION.*—As
13 of the privatization date, section 9101(3) of title 31, United
14 States Code, is amended by striking subparagraph (N) as
15 added by section 902(b) of Public Law 102–486.

16 (b) *DEFINITION OF THE CORPORATION.*—Section
17 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–
18 7(1) is amended by inserting “or its successor” before the
19 period.

20 **CHAPTER 2—DEPARTMENT OF ENERGY**

21 **SEC. 5221. SALE OF DOE ASSETS**

22 (a) *ASSET MANAGEMENT AND DISPOSITION PRO-*
23 *GRAM.*—

24 (1) *IN GENERAL.*—In order to maximize the use
25 of Department of Energy assets and to reduce over-

1 *head and other costs related to asset management at*
2 *the Department's facilities and laboratories, the Sec-*
3 *retary of Energy shall conduct an asset management*
4 *and disposition program that will result in not less*
5 *than \$225,000,000 in receipts and savings by October*
6 *1, 2000.*

7 (2) *ITEMS TO BE INCLUDED.—The program shall*
8 *include an inventory of assets in the care of the De-*
9 *partment and its contractors; the recovery, reuse, and*
10 *stewardship of assets; and disposition of a minimum*
11 *of 1,139,000,000 pounds of fuel, 136,000 tons of*
12 *chemicals and industrial gases, 557,000 tons of scrap*
13 *metal, 14,000 radiation sources, 17,000 pieces of*
14 *major equipment, 11,000 pounds of precious metals,*
15 *and 91,000,000 pounds of base metals.*

16 (b) *FEDERAL PROPERTY AND ADMINSTRATIVE SERV-*
17 *ICES ACT.—The disposition of assets under this section is*
18 *not subject to section 202 or 203 of the Federal Property*
19 *and Administrative Services Act of 1949 (40 U.S.C. 483,*
20 *484) or section 13 of the Surplus Property Act of 1944 (50*
21 *U.S.C. App. 1622). In order to avoid market disruptions,*
22 *the Secretary shall consult with appropriate executive agen-*
23 *cies with respect to dispositions under this section.*

24 (c) *DISPOSITION OF PROCEEDS.—After deduction of*
25 *administrative costs of disposition under this section not*

1 to exceed \$7,000,000 per year, the remainder of the proceeds
2 from dispositions under this subpart shall be returned to
3 the Treasury as miscellaneous receipts. There shall be estab-
4 lished a new receipt account in the Treasury for proceeds
5 of asset sales under this section.

6 **SEC. 5222. SALE OF WEEKS ISLAND OIL.**

7 Notwithstanding section 161 of the Energy Policy and
8 Conservation Act (42 U.S.C. 6241), the Secretary of Energy
9 shall draw down and sell 32,000,000 barrels of oil contained
10 in the Weeks Island Strategic Petroleum Reserve Facility.
11 The Secretary shall, to the greatest extent practicable, sell
12 oil from the reserve in a manner that minimizes the impact
13 of such sale upon supply levels and market forces.

14 **SEC. 5223. LEASE OF EXCESS STRATEGIC PETROLEUM RE-**
15 **SERVE CAPACITY.**

16 (a) *AMENDMENT.*—Part B of title I of the Energy Pol-
17 icy and Conservation Act (42 U.S.C. 6231 et seq.) is amend-
18 ed by adding at the end the following:

19 “USE OF UNDERUTILIZED FACILITIES

20 “SEC. 168. (a) *AUTHORITY.*—Notwithstanding any
21 other provision of this title, the Secretary, by lease or other-
22 wise, for any term and under such other conditions as the
23 Secretary considers necessary or appropriate, may store in
24 underutilized Strategic Petroleum Reserve facilities petro-
25 leum product owned by a foreign government or its rep-
26 resentative. Petroleum products stored under this section

1 *are not part of the Strategic Petroleum Reserve and may*
2 *be exported without license from the United States.*

3 “(b) *PROTECTION OF FACILITIES.*—*All agreements en-*
4 *tered into pursuant to subsection (a) shall contain provi-*
5 *sions providing for fees to fully compensate the United*
6 *States for all costs of storage and removals of petroleum*
7 *products, including the cost of replacement facilities neces-*
8 *sitated as a result of any withdrawals.*

9 “(c) *ACCESS TO STORED OIL.*—*The Secretary shall en-*
10 *sure that agreements to store petroleum products for foreign*
11 *governments or their representatives do not affect the ability*
12 *of the United States to withdraw, distribute, or sell petro-*
13 *leum from the Strategic Petroleum reserve in response to*
14 *an energy emergency or to the obligations of the United*
15 *States under the Agreement on an International Energy*
16 *Program.*

17 “(d) *AVAILABILITY OF FUNDS.*—*Beginning in fiscal*
18 *year 2001 and in each fiscal year thereafter except for fiscal*
19 *years 2003 and 2004, 50 percent of the funds resulting from*
20 *the leasing of Strategic Petroleum Reserve facilities author-*
21 *ized by subsection (a) shall be available to the Secretary*
22 *of Energy without further appropriation for the purchase*
23 *of oil for the Strategic Petroleum Reserve.”.*

24 “(b) *TABLE OF CONTENTS AMENDMENT.*—*The table of*
25 *contents of part B of title I of the Energy Policy and Con-*

1 *ervation Act is amended by adding at the end the follow-*
2 *ing:*

“Sec. 168. Use of underutilized facilities.”.

3 ***Subtitle C—Natural Resources***

4 ***CHAPTER 1—DEPARTMENT OF THE***

5 ***INTERIOR CONVEYANCES***

6 ***Subchapter A—California Directed Land Sale***

7 ***SEC. 5301. CONVEYANCE OF PROPERTY.***

8 *All right, title and interest of the United States in the*
9 *property depicted on a map designated USGS 7.5 minute*
10 *quadrangle, west of Flattop Mtn, CA 1984, entitled “Loca-*
11 *tion Map for Ward Valley Site”, located in San Bernardino*
12 *Meridian, Township 9 North, Range 19 East, and improve-*
13 *ments thereon, together with all necessary easements for*
14 *utilities and ingress and egress to such property, including,*
15 *but not limited to, the right to improve those easements,*
16 *are conveyed to the Department of Health Services of the*
17 *State of California upon the tendering of \$500,100 on behalf*
18 *of the State of California and the release of the United*
19 *States by the State of California from any liability for*
20 *claims relating to the property described in this section and,*
21 *as part of the consideration paid for such property, such*
22 *conveyance is declared to meet and fully comply with any*
23 *otherwise applicable provisions of section 7 of Endangered*
24 *Species Act of 1973 (16 U.S.C. 1536) and the National En-*
25 *vironmental Policy Act of 1969 (42 U.S.C. 4332). The Sec-*

1 *retary of the Interior shall issue evidence of title pursuant*
2 *to this Act notwithstanding any other provision of law.*

3 ***Subchapter B—Helium Reserves***

4 ***SEC. 5311. SHORT TITLE.***

5 *This subchapter may be cited as the “Helium Act of*
6 *1995”.*

7 ***SEC. 5312. AMENDMENT OF HELIUM ACT.***

8 *Except as otherwise expressly provided, whenever in*
9 *this chapter an amendment or repeal is expressed in terms*
10 *of an amendment to, or repeal of, a section or other provi-*
11 *sion, the reference shall be considered to be made to a section*
12 *or other provision of the Helium Act (50 U.S.C. 167 to*
13 *167n).*

14 ***SEC. 5313. AUTHORITY OF SECRETARY.***

15 *Sections 3, 4, and 5 are amended to read as follows:*

16 ***“SEC. 3. AUTHORITY OF SECRETARY.***

17 *“(a) EXTRACTION AND DISPOSAL OF HELIUM ON FED-*
18 *ERAL LANDS.—*

19 *“(1) IN GENERAL.—The Secretary may enter*
20 *into agreements with private parties for the recovery*
21 *and disposal of helium on Federal lands upon such*
22 *terms and conditions as the Secretary deems fair, rea-*
23 *sonable, and necessary.*

24 *“(2) LEASEHOLD RIGHTS.—The Secretary may*
25 *grant leasehold rights to any such helium.*

1 “(3) *LIMITATION.*—*The Secretary may not enter*
2 *into any agreement by which the Secretary sells such*
3 *helium other than to a private party with whom the*
4 *Secretary has an agreement for recovery and disposal*
5 *of helium.*

6 “(4) *REGULATIONS.*—*Agreements under para-*
7 *graph (1) may be subject to such regulations as may*
8 *be prescribed by the Secretary.*

9 “(5) *EXISTING RIGHTS.*—*An agreement under*
10 *paragraph (1) shall be subject to any rights of any*
11 *affected Federal oil and gas lessee that may be in ex-*
12 *istence prior to the date of the agreement.*

13 “(6) *TERMS AND CONDITIONS.*—*An agreement*
14 *under paragraph (1) (and any extension or renewal*
15 *of an agreement) shall contain such terms and condi-*
16 *tions as the Secretary may consider appropriate.*

17 “(7) *PRIOR AGREEMENTS.*—*This subsection shall*
18 *not in any manner affect or diminish the rights and*
19 *obligations of the Secretary and private parties under*
20 *agreements to dispose of helium produced from Fed-*
21 *eral lands in existence on the date of enactment of the*
22 *Helium Act of 1995 except to the extent that such*
23 *agreements are renewed or extended after that date.*

1 *of all facilities, equipment, and other real and per-*
2 *sonal property, and all interests therein, held by the*
3 *United States for the purpose of producing, refining*
4 *and marketing refined helium.*

5 “(2) *APPLICABLE LAW.*—*The disposal of such*
6 *property shall be in accordance with the Federal*
7 *Property and Administrative Services Act of 1949.*

8 “(3) *PROCEEDS.*—*All proceeds accruing to the*
9 *United States by reason of the sale or other disposal*
10 *of such property shall be treated as moneys received*
11 *under this chapter for purposes of section 6(f).*

12 “(4) *COSTS.*—*All costs associated with such sale*
13 *and disposal (including costs associated with termi-*
14 *nation of personnel) and with the cessation of activi-*
15 *ties under subsection (b) shall be paid from amounts*
16 *available in the helium production fund established*
17 *under section 6(f).*

18 “(5) *EXCEPTION.*—*Paragraph (1) shall not*
19 *apply to any facilities, equipment, or other real or*
20 *personal property, or any interest therein, necessary*
21 *for the storage, transportation and withdrawal of*
22 *crude helium or any equipment, facilities, or other*
23 *real or personal property, required to maintain the*
24 *purity, quality control, and quality assurance of*
25 *crude helium in the Bureau of Mines Cliffside Field.*

1 “(d) *EXISTING CONTRACTS.*—

2 “(1) *IN GENERAL.*—All contracts that were en-
3 tered into by any person with the Secretary for the
4 purchase by the person from the Secretary of refined
5 helium and that are in effect on the date of the enact-
6 ment of the Helium Act of 1995 shall remain in force
7 and effect until the date on which the refining oper-
8 ations cease, as described in subsection (b).

9 “(2) *COSTS.*—Any costs associated with the ter-
10 mination of contracts described in paragraph (1)
11 shall be paid from the helium production fund estab-
12 lished under section 6(f).

13 **“SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITH-**
14 **DRAWAL.**

15 “(a) *IN GENERAL.*—Whenever the Secretary provides
16 helium storage withdrawal or transportation services to any
17 person, the Secretary shall impose a fee on the person to
18 reimburse the Secretary for the full costs of providing such
19 storage, transportation, and withdrawal.

20 “(b) *TREATMENT.*—All fees received by the Secretary
21 under subsection (a) shall be treated as moneys received
22 under this Act for purposes of section 6(f).”.

23 **SEC. 5314. SALE OF CRUDE HELIUM.**

24 (a) Subsection 6(a) is amended by striking “from the
25 Secretary” and inserting “from persons who have entered

1 *into enforceable contracts to purchase an equivalent amount*
2 *of crude helium from the Secretary”.*

3 *(b) Subsection 6(b) is amended—*

4 *(1) by inserting “crude” before “helium”; and*

5 *(2) by adding the following at the end: “Except*
6 *as may be required by reason of subsection (a), sales*
7 *of crude helium under this section shall be in*
8 *amounts as the Secretary determines, in consultation*
9 *with the helium industry, necessary to carry out this*
10 *subsection with minimum market disruption.”.*

11 *(c) Subsection 6(c) is amended—*

12 *(1) by inserting “crude” after “Sales of”; and*

13 *(2) by striking “together with interest as pro-*
14 *vided in this subsection” and all that follows through*
15 *the end of the subsection and inserting “all funds re-*
16 *quired to be repaid to the United States as of October*
17 *1, 1995 under this section (referred to in this sub-*
18 *section as ‘repayable amounts’). The price at which*
19 *crude helium is sold by the Secretary shall not be less*
20 *than the amount determined by the Secretary by—*

21 *“(1) dividing the outstanding amount of such re-*
22 *payable amounts by the volume (in million cubic feet)*
23 *of crude helium owned by the United States and*
24 *stored in the Bureau of Mines Cliffside Field at the*
25 *time of the sale concerned, and*

1 “(2) adjusting the amount determined under
2 paragraph (1) by the Consumer Price Index for years
3 beginning after December 31, 1995.”.

4 (d) Subsection 6(d) is amended to read as follows:

5 “(d) *EXTRACTION OF HELIUM FROM DEPOSITS ON*
6 *FEDERAL LANDS.—All moneys received by the Secretary*
7 *from the sale or disposition of helium on Federal lands shall*
8 *be paid to the Treasury and credited against the amounts*
9 *required to be repaid to the Treasury under subsection (c).”.*

10 (e) Subsection 6(e) is repealed.

11 (f) Subsection 6(f) is amended—

12 (1) by striking “(f)” and inserting “(e)(1)”; and

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

14 “(2)(A) Within 7 days after the commencement of each
15 fiscal year after the disposal of the facilities referred to in
16 section 4(c), all amounts in such fund in excess of
17 \$2,000,000 (or such lesser sum as the Secretary deems nec-
18 essary to carry out this Act during such fiscal year) shall
19 be paid to the Treasury and credited as provided in para-
20 graph (1).

21 “(B) On repayment of all amounts referred to in sub-
22 section (c), the fund established under this section shall be
23 terminated and all moneys received under this Act shall be
24 deposited in the general fund of the Treasury.”.

1 **SEC. 5315. ELIMINATION OF STOCKPILE.**

2 *Section 8 is amended to read as follows:*

3 **“SEC. 8. ELIMINATION OF STOCKPILE.**

4 *“(a) STOCKPILE SALES.—*

5 *“(1) COMMENCEMENT.—Not later than January*
6 *1, 2005, the Secretary shall commence offering for sale*
7 *crude helium from helium reserves owned by the Unit-*
8 *ed States in such amounts as would be necessary to*
9 *dispose of all such helium reserves in excess of*
10 *600,000,000 cubic feet on a straight-line basis between*
11 *such date and January 1, 2015.*

12 *“(2) TIMES OF SALE.—The sales shall be at such*
13 *times during each year and in such lots as the Sec-*
14 *retary determines, in consultation with the helium in-*
15 *dustry, to be necessary to carry out this subsection*
16 *with minimum market disruption.*

17 *“(3) PRICE.—The price for all sales under para-*
18 *graph (1), as determined by the Secretary in con-*
19 *sultation with the helium industry, shall be such price*
20 *as will ensure repayment of the amounts required to*
21 *be repaid to the Treasury under section 6(c).*

22 *“(b) DISCOVERY OF ADDITIONAL RESERVES.—The dis-*
23 *covery of additional helium reserves shall not affect the duty*
24 *of the Secretary to make sales of helium under subsection*
25 *(a).”.*

1 **SEC. 5316. REPEAL OF AUTHORITY TO BORROW.**

2 *Sections 12 and 15 are repealed.*

3 **SEC. 5317. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.**

4 *(a) IN GENERAL.—The Secretary of the Interior shall*
5 *transfer all right, title, and interest of the United States*
6 *in and to the parcel of land described in subsection (b) to*
7 *the Texas Plains Girl Scout Council for consideration of*
8 *\$1, reserving to the United States such easements as may*
9 *be necessary for pipeline rights-of-way.*

10 *(b) LAND DESCRIPTION.—The parcel of land referred*
11 *to in subsection (a) is all those certain lots, tracts or parcels*
12 *of land lying and being situated in the County of Potter*
13 *and State of Texas, and being the East Three Hundred*
14 *Thirty-One (E331) acres out of Section Seventy-eight (78)*
15 *in Block Nine (9), B.S. & F. Survey, (some times known*
16 *as the G.D. Landis pasture) Potter County, Texas, located*
17 *by certificate No. 1/39 and evidenced by letters patents Nos.*
18 *411 and 412 issued by the State of Texas under date of*
19 *November 23, 1937, and of record in Vol. 66A of the Patent*
20 *Records of the State of Texas. The metes and bounds de-*
21 *scription of such lands is as follows:*

22 *(1) FIRST TRACT.—One Hundred Seventy-one*
23 *(171) acres of land known as the North part of the*
24 *East part of said survey Seventy-eight (78) aforesaid,*
25 *described by metes and bounds as follows:*

1 *Beginning at a stone 20 x 12 x 3 inches marked*
2 *X, set by W.D. Twichell in 1905, for the Northeast*
3 *corner of this survey and the Northwest corner of Sec-*
4 *tion 59;*

5 *Thence, South 0 degrees 12 minutes East with*
6 *the West line of said Section 59, 999.4 varas to the*
7 *Northeast corner of the South 160 acres of East half*
8 *of Section 78;*

9 *Thence, North 89 degrees 47 minutes West with*
10 *the North line of the South 150 acres of the East half,*
11 *956.8 varas to a point in the East line of the West*
12 *half Section 78;*

13 *Thence, North 0 degrees 10 minutes West with*
14 *the East line of the West half 999.4 varas to a stone*
15 *18 x 14 x 3 inches in the middle of the South line*
16 *of Section 79;*

17 *Thence, South 89 degrees 47 minutes East 965*
18 *varas to the place of beginning.*

19 (2) *SECOND TRACT.—One Hundred Sixty (160)*
20 *acres of land known as the South part of the East*
21 *part of said survey No. Seventy-eight (78) described*
22 *by metes and bounds as follows:*

23 *Beginning at the Southwest corner of Section 59,*
24 *a stone marked X and a pile of stones; Thence, North*
25 *89 degrees 47 minutes West with the North line of*

1 *Section 77, 966.5 varas to the Southeast corner of the*
2 *West half of Section 78; Thence, North 0 degrees 10*
3 *minutes West with the East line of the West half of*
4 *Section 78;*

5 *Thence, South 89 degrees 47 minutes East 965.8*
6 *varas to a point in the East line of Section 78;*

7 *Thence, South 0 degrees 12 minutes East 934.6*
8 *varas to the place of beginning.*

9 *Containing an area of 331 acres, more or less.*

10 **CHAPTER 2—ARCTIC COASTAL PLAIN**

11 **LEASING AND REVENUE ACT**

12 **SEC. 5312. SHORT TITLE.**

13 *This chapter may be cited as the 'Arctic Coastal Plain*
14 *Leasing and Revenue Act of 1995'.*

15 **SEC. 5322. DEFINITIONS.**

16 *When used in this chapter the term—*

17 (1) *“Coastal Plain” means that area identified*
18 *as such in the map entitled “Arctic National Wildlife*
19 *Refuge”, dated August 1980, as referenced in section*
20 *1002(b) of the Alaska National Interest Lands Con-*
21 *servation Act of 1980 (16 U.S.C. 3142(b)(1)) compris-*
22 *ing approximately 1, 549,000 acres; and*

23 (2) *“Secretary” except as otherwise provided,*
24 *means the Secretary of the Interior or the Secretary’s*
25 *designee.*

1 **SEC. 5333. LEASING PROGRAM FOR LANDS WITHIN THE**
2 **COASTAL PLAIN.**

3 (a) *AUTHORIZATION.*—*The Congress hereby authorizes*
4 *and directs the Secretary, acting through the Bureau of*
5 *Land Management in consultation with the Fish and Wild-*
6 *life Service and other appropriate Federal officers and*
7 *agencies, to take such actions as are necessary to establish*
8 *and implement a competitive oil and gas leasing program*
9 *that will result in an environmentally sound program for*
10 *the exploration, development, and production of the oil and*
11 *gas resources of the Coastal Plain and to administer the*
12 *provisions of this chapter through regulations, lease terms,*
13 *conditions, restrictions, prohibitions, stipulations and other*
14 *provisions that ensure the oil and gas exploration, develop-*
15 *ment, and production activities on the Coastal Plain will*
16 *result in no significant adverse effect on fish and wildlife,*
17 *their habitat, subsistence resources, and the environment,*
18 *and shall require the application of the best commercially*
19 *available technology for oil and gas exploration, develop-*
20 *ment, and production, on all new exploration, development,*
21 *and production operations, and whenever practicable, on*
22 *existing operations, and in a manner to ensure the receipt*
23 *of fair market value by the public for the mineral resources*
24 *to be leased.*

25 (b) *REPEAL.*—*The prohibitions and limitations con-*
26 *tained in section 1003 of the Alaska National Interest*

1 *Lands Conservation Act of 1980 (16 U.S.C. 3143) are here-*
2 *by repealed.*

3 (c) *COMPATIBILITY.*—*Congress hereby determines that*
4 *the oil and gas leasing program and activities authorized*
5 *by this section in the Coastal Plain are compatible with*
6 *the purposes for which the Arctic National Wildlife Refuge*
7 *was established, and that no further findings or decisions*
8 *are required to implement this determination.*

9 (d) *SOLE AUTHORITY.*—*This chapter shall be the sole*
10 *authority for leasing on the Coastal Plain. Provided, That*
11 *nothing in this chapter shall be deemed to expand or limit*
12 *state and local regulatory authority.*

13 (e) *FEDERAL LAND.*—*The Coastal Plain shall be con-*
14 *sidered “Federal land” for the purposes of the Federal Oil*
15 *and Gas Royalty Management Act of 1982 .*

16 (f) *SPECIAL AREAS.*—*The Secretary, after consultation*
17 *with the State of Alaska, City of Kaktovik, and the North*
18 *Slope Borough, is authorized to designate up to a total of*
19 *45,000 acres of the Coastal Plain as Special Areas and close*
20 *such areas to leasing if the Secretary determines that these*
21 *Special Areas are of such unique character and interest so*
22 *as to require special management and regulatory protec-*
23 *tion. The Secretary may, however, permit leasing of all or*
24 *portions of any Special Areas within the Coastal Plain by*
25 *setting lease terms that limit or condition surface use and*

1 *occupancy by lessees of such lands but permit the use of*
2 *horizontal drilling technology from sites on leases located*
3 *outside the designated Special Areas.*

4 *(g) LIMITATION ON CLOSED AREAS.—The Secretary’s*
5 *sole authority to close lands within the Coastal Plain to*
6 *oil and gas leasing and to exploration, development, and*
7 *production is that set forth in this subtitle.*

8 *(h) CONVEYANCE.—In order to maximize federal reve-*
9 *nues by removing clouds on title of lands and clarifying*
10 *land ownership patterns within the Coastal Plain, the Sec-*
11 *retary, notwithstanding the provisions of section 1302(h)(2)*
12 *of the Alaska National Interest Lands Conservation Act (16*
13 *U.S.C. 3192(h)(2)), is authorized and directed to convey (1)*
14 *to the Kaktovik Inupiat Corporation the surface estate of*
15 *the lands described in paragraph 2 of Public Land Order*
16 *6959, to the extent necessary to fulfill the corporation’s enti-*
17 *tlement under section 12 of the Alaska Native Claims Settle-*
18 *ment Act (43 U.S.C. 1611), and (2) to the Arctic Slope Re-*
19 *gional Corporation the subsurface estate beneath such sur-*
20 *face estate pursuant to the August 9, 1983, agreement be-*
21 *tween the Arctic Slope Regional Corporation and the Unit-*
22 *ed States of America.*

23 **SEC. 5334. RULES AND REGULATIONS.**

24 *(a) PROMULGATION.—The Secretary shall prescribe*
25 *such rules and regulations as may be necessary to carry*

1 out the purposes and provisions of this chapter, including
2 rules and regulations relating to protection of the fish and
3 wildlife, their habitat, subsistence resources, and the envi-
4 ronment of the Coastal Plain. Such rules and regulations
5 shall be promulgated no later than fourteen months after
6 the date of enactment of this chapter and shall, as of their
7 effective date, apply to all operations conducted under a
8 lease issued or maintained under the provisions of this
9 chapter and all operations on the Coastal Plain related to
10 the leasing, exploration, development and production of oil
11 and gas.

12 (b) *REVISION OF REGULATIONS.*—The Secretary shall
13 periodically review and, if appropriate, revise the rules and
14 regulations issued under subsection (a) of this section to re-
15 flect any significant biological, environmental, or engineer-
16 ing data which come to the Secretary’s attention.

17 **SEC. 5335. ADEQUACY OF THE DEPARTMENT OF THE INTE-**
18 **RIOR’S LEGISLATIVE ENVIRONMENTAL IM-**
19 **PACT STATEMENT.**

20 The “Final Legislative Environmental Impact State-
21 ment” (April 1987) on the Coastal Plain prepared pursu-
22 ant to section 1002 of the Alaska National Interest Lands
23 Conservation Act of 1980 (16 U.S.C. 3142) and section
24 102(2)(C) of the National Environmental Policy Act of
25 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Con-

1 *gress to be adequate to satisfy the legal and procedural re-*
2 *quirements of the National Environmental Policy Act of*
3 *1969 with respect to actions authorized to be taken by the*
4 *Secretary to develop and promulgate the regulations for the*
5 *establishment of the leasing program authorized by this*
6 *chapter, to conduct the first lease sale and any subsequent*
7 *lease sale authorized by this chapter, and to grant rights-*
8 *of-way and easements to carry out the purposes of this*
9 *chapter.*

10 **SEC. 5336. LEASE SALES.**

11 *(a) LEASE SALES.—Lands may be leased pursuant to*
12 *the provisions of this chapter to any person qualified to ob-*
13 *tain a lease for deposits of oil and gas under the Mineral*
14 *Leasing Act, as amended (30 U.S.C. 181).*

15 *(b) PROCEDURES.—The Secretary shall, by regulation,*
16 *establish procedures for—*

17 *(1) receipt and consideration of sealed nomina-*
18 *tions for any area in the Coastal Plain for inclusion*
19 *in, or exclusion (as provided in subsection (c)) from,*
20 *a lease sale; and*

21 *(2) public notice of and comment on designation*
22 *of areas to be included in, or excluded from, a lease*
23 *sale.*

24 *(c) LEASE SALES ON COASTAL PLAIN.—The Secretary*
25 *shall, by regulation, provide for lease sales of lands on the*

1 *Coastal Plain. When lease sales are to be held, they shall*
2 *occur after the nomination process provided for in sub-*
3 *section (b) of this section. For the first lease sale, the Sec-*
4 *retary shall offer for lease those acres receiving the greatest*
5 *number of nominations, but no less than two hundred thou-*
6 *sand acres and no more than three hundred thousand acres*
7 *shall be offered. If the total acreage nominated is less than*
8 *two hundred thousand acres, the Secretary shall include in*
9 *such sale any other acreage which he believes has the highest*
10 *resource potential, but in no event shall more than three*
11 *hundred thousand acres of the Coastal Plain be offered in*
12 *such sale. With respect to subsequent lease sales, the Sec-*
13 *retary shall offer for lease no less than two hundred thou-*
14 *sand acres of the Coastal Plain. The initial lease sale shall*
15 *be held within twenty months of the date of enactment of*
16 *this chapter. The second lease sale shall be held no later*
17 *than twenty-four months after the initial sale, with addi-*
18 *tional sales conducted no later than twelve months there-*
19 *after so long as sufficient interest in development exists to*
20 *warrant, in the Secretary's judgment, the conduct of such*
21 *sales.*

22 **SEC. 5337. GRANT OF LEASES BY THE SECRETARY.**

23 (a) *IN GENERAL.*—*The Secretary is authorized to*
24 *grant to the highest responsible qualified bidder by sealed*
25 *competitive cash bonus bid any lands to be leased on the*

1 *Coastal Plain upon payment by the lessee of such bonus*
2 *as may be accepted by the Secretary and of such royalty*
3 *as may be fixed in the lease, which shall be not less than*
4 *12½ per centum in amount or value of the production re-*
5 *moved or sold from the lease.*

6 (b) *ANTITRUST REVIEW.*—*Following each notice of a*
7 *proposed lease sale and before the acceptance of bids and*
8 *the issuance of leases based on such bids, the Secretary shall*
9 *allow the Attorney General, in consultation with the Fed-*
10 *eral Trade Commission, thirty days to perform an antitrust*
11 *review of the results of such lease sale on the likely effects*
12 *the issuance of such leases would have on competition and*
13 *the Attorney General shall advise the Secretary with respect*
14 *to such review, including any recommendation for the*
15 *nonacceptance of any bid or the imposition of terms or con-*
16 *ditions on any lease, as may be appropriate to prevent any*
17 *situation inconsistent with the antitrust laws.*

18 (c) *SUBSEQUENT TRANSFERS.*—*No lease issued under*
19 *this chapter may be sold, exchanged, assigned, sublet, or oth-*
20 *erwise transferred except with the approval of the Secretary.*
21 *Prior to any such approval the Secretary shall consult with,*
22 *and give due consideration to the views of, the Attorney*
23 *General.*

24 (d) *IMMUNITY.*—*Nothing in this chapter shall be*
25 *deemed to convey to any person, association, corporation,*

1 *or other business organization immunity from civil or*
2 *criminal liability, or to create defenses to actions, under*
3 *any antitrust law.*

4 *(e) DEFINITIONS.—As used in this section, the term—*

5 *(1) “antitrust review” shall be deemed an “anti-*
6 *trust investigation” for the purposes of the Antitrust*
7 *Civil Process Act (15 U.S.C. 1311); and*

8 *(2) “antitrust laws” means those Acts set forth*
9 *in section 1 of the Clayton Act (15 U.S.C. 12) as*
10 *amended.*

11 **SEC. 5338. LEASE TERMS AND CONDITIONS.**

12 *An oil or gas lease issued pursuant to this chapter*
13 *shall—*

14 *(1) be for a tract consisting of a compact area*
15 *not to exceed five thousand seven hundred sixty acres,*
16 *or nine surveyed or protracted sections which shall be*
17 *as compact in form as possible.*

18 *(2) be for an initial period of ten years and shall*
19 *be extended for so long thereafter as oil or gas is pro-*
20 *duced in paying quantities from the lease or unit*
21 *area to which the lease is committed or for so long as*
22 *drilling or reworking operations, as approved by the*
23 *Secretary, are conducted on the lease or unit area;*

24 *(3) require the payment of royalty as provided*
25 *for in section 5337 of this chapter;*

1 (4) *require that exploration activities pursuant*
2 *to any lease issued or maintained under this chapter*
3 *shall be conducted in accordance with an exploration*
4 *plan or a revision of such plan approved by the Sec-*
5 *retary;*

6 (5) *require that all development and production*
7 *pursuant to a lease issued or maintained pursuant to*
8 *this chapter shall be conducted in accordance with de-*
9 *velopment and production plans approved by the Sec-*
10 *retary;*

11 (6) *require posting of bond as required by section*
12 *5339 of this chapter;*

13 (7) *provide that the Secretary may close, on a*
14 *seasonal basis, portions of the Coastal Plain to ex-*
15 *ploratory drilling activities as necessary to protect*
16 *caribou calving areas and other species of fish and*
17 *wildlife;*

18 (8) *contain such provisions relating to rental*
19 *and other fees as the Secretary may prescribe at the*
20 *time of offering the area for lease;*

21 (9) *provide that the Secretary may direct or as-*
22 *sent to the suspension of operations and production*
23 *under any lease granted under the terms of this chap-*
24 *ter in the interest of conservation of the resource or*
25 *where there is no available system to transport the re-*

1 source. If such a suspension is directed or assented to
2 by the Secretary, any payment of rental prescribed by
3 such lease shall be suspended during such period of
4 suspension of operations and production, and the
5 term of the lease shall be extended by adding any such
6 suspension period thereto;

7 (10) provide that whenever the owner of a
8 nonproducing lease fails to comply with any of the
9 provisions of this chapter, or of any applicable provi-
10 sion of Federal or State environmental law, or of the
11 lease, or of any regulation issued under this chapter,
12 such lease may be canceled by the Secretary if such
13 default continues for more than thirty days after
14 mailing of notice by registered letter to the lease
15 owner at the lease owner's record post office address
16 of record;

17 (11) provide that whenever the owner of any pro-
18 ducing lease fails to comply with any of the provi-
19 sions of this chapter, or of any applicable provision
20 of Federal or State environmental law, or of the lease,
21 or of any regulation issued under this chapter, such
22 lease may be forfeited and canceled by any appro-
23 priate proceeding brought by the Secretary in any
24 United States district court having jurisdiction under
25 the provisions of this chapter;

1 (12) provide that cancellation of a lease under
2 this chapter shall in no way release the owner of the
3 lease from the obligation to provide for reclamation of
4 the lease site;

5 (13) allow the lessee, at the discretion of the Sec-
6 retary, to make written relinquishment of all rights
7 under any lease issued pursuant to this chapter. The
8 Secretary shall accept such relinquishment by the les-
9 see of any lease issued under this chapter where there
10 has not been surface disturbance on the lands covered
11 by the lease;

12 (14) provide that for the purpose of conserving
13 the natural resources of any oil or gas pool, field, or
14 like area, or any part thereof, and in order to avoid
15 the unnecessary duplication of facilities, to protect the
16 environment of the Coastal Plain, and to protect cor-
17 relative rights, the Secretary shall require that, to the
18 greatest extent practicable, lessees unite with each
19 other in collectively adopting and operating under a
20 cooperative or unit plan of development for operation
21 of such pool, field, or like area, or any part thereof,
22 and the Secretary is also authorized and directed to
23 enter into such agreements as are necessary or appro-
24 priate for the protection of the United States against
25 drainage;

1 (15) require that the holder of a lease or leases
2 on lands within the Coastal Plain shall be fully re-
3 sponsible and liable for the reclamation of lands with-
4 in the Coastal Plain and any other Federal lands ad-
5 versely affected in connection with exploration, devel-
6 opment, production or transportation activities on a
7 lease within the Coastal Plain by the holder of a lease
8 or as a result of activities conducted on the lease by
9 any of the leaseholder's subcontractors or agents;

10 (16) provide that the holder of a lease may not
11 delegate or convey, by contract or otherwise, the rec-
12 lamation responsibility and liability to another party
13 without the express written approval of the Secretary;

14 (17) provide that the standard of reclamation for
15 lands required to be reclaimed under this chapter be,
16 as nearly as practicable, a condition capable of sup-
17 porting the uses which the lands were capable of sup-
18 porting prior to any exploration, development, or pro-
19 duction activities, or upon application by the lessee,
20 to a higher or better use as approved by the Secretary;

21 (18) contain the terms and conditions relating to
22 protection of fish and wildlife, their habitat, and the
23 environment, as required by section 5333(a) of this
24 chapter;

1 *financial arrangement is in addition to, and not in lieu,*
2 *of any bond, surety, or financial arrangement required by*
3 *any other regulatory authority or required by any other*
4 *provision of law.*

5 (b) *AMOUNT.*—*The bond, surety, or financial arrange-*
6 *ment shall be in an amount—*

7 (1) *to be determined by the Secretary to provide*
8 *for reclamation of the lease site in accordance with an*
9 *approved or revised exploration or development and*
10 *production plan; plus*

11 (2) *set by the Secretary consistent with the type*
12 *of operations proposed, to provide the means for rapid*
13 *and effective cleanup, and to minimize damages re-*
14 *sulting from an oil spill, the escape of gas, refuse, do-*
15 *mestic wastewater, hazardous or toxic substances, or*
16 *fire caused by oil and gas activities.*

17 (c) *ADJUSTMENT.*—*In the event that an approved ex-*
18 *ploration or development and production plan is revised,*
19 *the Secretary may adjust the amount of the bond, surety,*
20 *or other financial arrangement to conform to such modified*
21 *plan.*

22 (d) *DURATION.*—*The responsibility and liability of the*
23 *lessee and its surety under the bond, surety, or other finan-*
24 *cial arrangement shall continue until such time as the Sec-*

1 *retary determines that there has been compliance with the*
2 *terms and conditions of the lease and all applicable law.*

3 (e) *TERMINATION.*—*Within sixty days after determin-*
4 *ing that there has been compliance with the terms and con-*
5 *ditions of the lease and all applicable laws, the Secretary,*
6 *after consultation with affected Federal and State agencies,*
7 *shall notify the lessee that the period of liability under the*
8 *bond, surety, or other financial arrangement has been ter-*
9 *minated.*

10 **SEC. 5340. OIL AND GAS INFORMATION.**

11 (a) *IN GENERAL.*—(1) *Any lessee or permittee conduct-*
12 *ing any exploration for, or development or production of,*
13 *oil or gas pursuant to this chapter shall provide the Sec-*
14 *retary access to all data and information from any lease*
15 *granted pursuant to this chapter (including processed and*
16 *analyzed) obtained from such activity and shall provide*
17 *copies of such data and information as the Secretary may*
18 *request. Such data and information shall be provided in*
19 *accordance with regulations which the Secretary shall pre-*
20 *scribe.*

21 (2) *If processed and analyzed information provided*
22 *pursuant to paragraph (1) is provided in good faith by the*
23 *lessee or permittee, such lessee or permittee shall not be re-*
24 *sponsible for any consequence of the use or of reliance upon*
25 *such processed and analyzed information.*

1 (3) *Whenever any data or information is provided to*
2 *the Secretary, pursuant to paragraph (1)—*

3 (A) *by a lessee or permittee, in the form*
4 *and manner of processing which is utilized by*
5 *such lessee or permittee in the normal conduct of*
6 *business, the Secretary shall pay the reasonable*
7 *cost of reproducing such data and information;*
8 *or*

9 (B) *by a lessee or permittee, in such other*
10 *form and manner of processing as the Secretary*
11 *may request, the Secretary shall pay the reason-*
12 *able cost of processing and reproducing such*
13 *data and information.*

14 (b) *REGULATIONS.—The Secretary shall prescribe reg-*
15 *ulations to: (1) assure that the confidentiality of privileged*
16 *or proprietary information received by the Secretary under*
17 *this section will be maintained; and (2) set forth the time*
18 *periods and conditions which shall be applicable to the re-*
19 *lease of such information.*

20 **SEC. 5341. EXPEDITED JUDICIAL REVIEW.**

21 (a) *Any complaint seeking judicial review of any pro-*
22 *vision in this chapter, or any other action of the Secretary*
23 *under this chapter may be filed in any appropriate district*
24 *court of the United States, and such complaint must be filed*
25 *within ninety days from the date of the action being chal-*

1 *lenged, or after such date if such complaint is based solely*
2 *on grounds arising after such ninetieth day, in which case*
3 *the complaint must be filed within ninety days after the*
4 *complainant knew or reasonably should have known of the*
5 *grounds for the complaint: Provided, That any complaint*
6 *seeking judicial review of an action of the Secretary in pro-*
7 *mulgating any regulation under this chapter may be filed*
8 *only in the United States Court of Appeals for the District*
9 *of Columbia.*

10 *(b) Actions of the Secretary with respect to which re-*
11 *view could have been obtained under this section shall not*
12 *be subject to judicial review in any civil or criminal pro-*
13 *ceeding for enforcement.*

14 **SEC. 5342. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

15 *Notwithstanding Title XI of the Alaska National Inter-*
16 *est Lands Conservation Act of 1980 (16 U.S.C. 3161 et*
17 *seq.), the Secretary is authorized and directed to grant, in*
18 *accordance with the provisions of Section 28(c) through (t)*
19 *and (v) through (y) of the Mineral Leasing Act of 1920 (30*
20 *U.S.C. 185), rights-of-way and easements across the Coastal*
21 *Plain for the transportation of oil and gas under such terms*
22 *and conditions as may be necessary so as not to result in*
23 *a significant adverse effect on the fish and wildlife, subsist-*
24 *ence resources, their habitat, and the environment of the*
25 *Coastal Plain. Such terms and conditions shall include re-*

1 *quirements that facilities be sited or modified so as to avoid*
 2 *unnecessary duplication of roads and pipelines. The regula-*
 3 *tions issued as required by section 5334 of this chapter shall*
 4 *include provisions granting rights-of-way and easements*
 5 *across the Coastal Plain.*

6 **SEC. 5343. ENFORCEMENT OF SAFETY AND ENVIRON-**
 7 **MENTAL REGULATIONS TO ENSURE COMPLI-**
 8 **ANCE WITH TERMS AND CONDITIONS OF**
 9 **LEASE.**

10 (a) *RESPONSIBILITY OF THE SECRETARY.*—*The Sec-*
 11 *retary shall diligently enforce all regulations, lease terms,*
 12 *conditions, restrictions, prohibitions, and stipulations pro-*
 13 *mulgated pursuant to this chapter.*

14 (b) *RESPONSIBILITY OF HOLDERS OF LEASE.*—*It shall*
 15 *be the responsibility of any holder of a lease under this*
 16 *chapter to—*

17 (1) *maintain all operations within such lease*
 18 *area in compliance with regulations intended to pro-*
 19 *tect persons and property on, and fish and wildlife,*
 20 *their habitat, subsistence resources, and the environ-*
 21 *ment of, the Coastal Plain; and*

22 (2) *allow prompt access at the site of any oper-*
 23 *ations subject to regulation under this chapter to any*
 24 *appropriate Federal or State inspector, and to pro-*
 25 *vide such documents and records which are pertinent*

1 to occupational or public health, safety, or environ-
2 mental protection, as may be requested.

3 (c) *ON-SITE INSPECTION.*—The Secretary shall pro-
4 mulgate regulations to provide for—

5 (1) *scheduled onsite inspection by the Secretary,*
6 *at least twice a year, of each facility on the Coastal*
7 *Plain which is subject to any environmental or safety*
8 *regulation promulgated pursuant to this chapter or*
9 *conditions contained in any lease issued pursuant to*
10 *this chapter to assure compliance with such environ-*
11 *mental or safety regulations or conditions; and*

12 (2) *periodic onsite inspection by the Secretary at*
13 *least once a year without advance notice to the opera-*
14 *tor of such facility to assure compliance with all envi-*
15 *ronmental or safety regulations.*

16 **SEC. 5344. NEW REVENUES.**

17 (a) *DISTRIBUTION OF REVENUES.*—(1) *Notwithstand-*
18 *ing any other provision of law, all revenues received by the*
19 *Federal Government from competitive bids, sales, bonuses,*
20 *royalties, rents, fees, or interest derived from the leasing of*
21 *oil and gas within the Coastal Plain shall be deposited into*
22 *the Treasury of the United States, solely as provided in this*
23 *subsection.*

24 (2) *Fifty percent of all revenues referred to in para-*
25 *graph (1) shall be paid by the Secretary of the Treasury*

1 *semiannually to the State of Alaska, on March 30 and Sep-*
2 *tember 30 of each year.*

3 (3)(A) *The Secretary of the Treasury is directed to*
4 *monitor the revenues deposited into the Treasury from oil*
5 *and gas leases issued under the authority of this chapter.*
6 *Except as provided in subparagraph (B), all monies depos-*
7 *ited into the Treasury from such oil and gas leases in excess*
8 *of \$2,600,000,000 shall be distributed as follows:*

9 (i) *Fifty percent shall be paid to the State of*
10 *Alaska in the manner provided in this subsection;*
11 *and*

12 (ii) *Fifty percent shall be deposited into a spe-*
13 *cial fund established in the Treasury of the United*
14 *States known as the “National Park, Refuge, and*
15 *Fish and Wildlife Renewal and Protection Fund*
16 *(hereinafter in this section referred to as the “renewal*
17 *fund”).*

18 (B) *Deposits into the renewal fund shall not exceed*
19 *\$250,000,000 over the life of the renewal fund. Monies in*
20 *excess of such amount shall be deposited as miscellaneous*
21 *receipts in the Treasury of the United States.*

22 (C) *Deposits into the renewal fund shall remain avail-*
23 *able until expended. The Secretary of the Treasury is di-*
24 *rected to develop procedures for use of the renewal fund to*
25 *ensure accountability and demonstrated results.*

1 **(b) USE OF RENEWAL FUND.**—*Monies from the re-*
2 *newal fund shall be made available to the Secretary of the*
3 *Interior, without further appropriation, at the beginning*
4 *of each fiscal year in which funds are available, and shall*
5 *be expended by the Secretary as follows:*

6 (1) *Twenty-five percent shall be used for infra-*
7 *structure needs at units of the National Park System,*
8 *including but not limited to, facility refurbishment,*
9 *repair and replacement, interpretive media and ex-*
10 *hibit repair and replacement, and Infrastructure*
11 *projects associated with park resource protection;*

12 (2) *Twenty-five percent shall be used for infra-*
13 *structure needs at units of the National Wildlife Ref-*
14 *uge System, including but not limited to, facility re-*
15 *furishment, repair and replacement, interpretive*
16 *media and exhibit repair and replacement, and infra-*
17 *structure projects associated with refuge resource pro-*
18 *tection;*

19 (3) *Twenty-five percent shall be used for acquisi-*
20 *tion of important habitat lands for threatened or en-*
21 *dangered species from owners of private property.*
22 *Such lands shall be acquired solely on a willing seller*
23 *basis and shall be managed by the Secretary for the*
24 *conservation of such species pursuant to the terms of*

1 *section 5 of the Endangered Species Act of 1973 (16*
2 *U.S.C. 1534); and*

3 (4) *Twenty-five percent shall be available for*
4 *wetlands projects in accordance with the applicable*
5 *provision of the North American Wetlands Conserva-*
6 *tion Act (16 U.S.C. 4401 et seq.).*

7 (c) *COMMUNITY ASSISTANCE.—There is hereby estab-*
8 *lished a Community Assistance Fund in the Treasury into*
9 *which shall be deposited \$30,000,000 from revenues derived*
10 *from the federal share of the first lease sale authorized under*
11 *this chapter. The Secretary of the Treasury shall invest the*
12 *funds in the Community Assistance Fund in interest bear-*
13 *ing government securities. No more than \$5,000,000 per*
14 *year from the Community Assistance Fund, shall be avail-*
15 *able to the Secretary for distribution, upon application and*
16 *without further appropriation, to organized boroughs, other*
17 *municipal subdivisions of the State of Alaska, and recog-*
18 *nized Indian Reorganization Act entities which are directly*
19 *impacted by the exploration and production of oil and gas*
20 *on the Coastal Plain authorized by this chapter to provide*
21 *public and social services and facilities required in connec-*
22 *tion with such activities.*

1 **CHAPTER 3—WATER PROJECTS**

2 **Subchapter A—Irrigation Prepayment**

3 **SEC. 5351. AUTHORIZATION FOR PREPAYMENT OF CON-**
4 **STRUCTION CHARGES.**

5 *Subsection 213(a) of the Reclamation Reform Act of*
6 *1982 (96 Stat. 1269, 43 U.S.C. 390mm(a)) is amended:*

7 (1) *by adding at the beginning:*

8 *“Notwithstanding any provision of Reclamation law*
9 *or limitation contained in any repayment or water service*
10 *contract, any person or district holding such a contract or*
11 *receiving water under such a contract with the United*
12 *States may prepay the construction costs referred to in this*
13 *section either through accelerated or lump sum payments.*
14 *For the purposes of such prepayment only, the project to*
15 *which such contract applies is declared to be complete and*
16 *the Secretary shall determine the repayment obligations as-*
17 *sociated with the construction costs of the project facilities*
18 *so that accelerated payments or a lump sum payment may*
19 *be made. The amount of any prepayment shall be calculated*
20 *by discounting the remaining payments due under a con-*
21 *tract in accordance with the guidelines set forth in Circular*
22 *A-129 issued by the Office of Management and Budget: Pro-*
23 *vided, That the discount shall be adjusted by any amounts*
24 *necessary to compensate the Federal Government for the di-*
25 *rect or indirect loss of future tax revenues if the individual*

1 *or district plans to use federally tax-exempt financing for*
2 *such prepayment.”;*

3 (2) *by striking “lands in a district” and insert-*
4 *ing: “lands in a district, or lands owned or leased by*
5 *a person”;*

6 (3) *by striking “obligation of a district” and in-*
7 *serting: “obligation of a district or a person”;*

8 (4) *by striking “enactment of this Act.” and in-*
9 *serting: “enactment of this Act or as otherwise pro-*
10 *vided for in this section. Any additional capital costs*
11 *incurred after the date of such prepayment shall be*
12 *recoverable as a separate obligation and shall not be*
13 *considered to be a new or supplemental benefit for the*
14 *purposes of this act nor cause the full cost pricing*
15 *limitation of this Act or the ownership limitations*
16 *contained in any provision of federal reclamation law*
17 *to apply to the lands to which such capital costs*
18 *apply.”.*

19 **SEC. 5352. CONFORMING AMENDMENT.**

20 *Subsection 213 (c) of the Reclamation Reform Act of*
21 *1982 (43 U.S.C. 390 mm (c)) is repealed.*

22 ***Subchapter B—Hetch Hetchy***

23 **SEC. 5353. HETCH HETCHY DAM.**

24 *Section 7 of the Act of December 19, 1913 (38 Stat.*
25 *242, chapter 4), is amended—*

1 (1) *by striking “\$30,000” in the first sentence*
2 *and inserting “\$2,000,000”; and*

3 (2) *by amending the second and third sentences*
4 *to read as follows: “These funds shall be placed in a*
5 *separate fund by the United States and, notwith-*
6 *standing any other provision of law, shall not be*
7 *available for obligation or expenditure until appro-*
8 *priated by the Congress. The highest priority use of*
9 *the funds shall be for annual operation of Yosemite*
10 *National Park, with the remainder of any funds to be*
11 *used to fund operations of other national parks in the*
12 *State of California.”.*

13 ***Subchapter C—Collbran Project***

14 ***SEC. 5355. COLLBRAN PROJECT.***

15 (a) *SHORT TITLE.*—*This subchapter may be cited as*
16 *the “Collbran Project Unit Conveyance Act”.*

17 (b) *DEFINITIONS.*—*For purposes of this subchapter:*

18 (1) *DISTRICTS.*—*The term “Districts” means the*
19 *Ute Water Conservancy District and the Collbran*
20 *Conservancy District (including their successors and*
21 *assigns), which are political subdivisions of the State*
22 *of Colorado.*

23 (2) *FEDERAL RECLAMATION LAWS.*—*The term*
24 *“Federal reclamation laws” means the Act of June*
25 *17, 1902 and Acts amendatory thereof or supple-*

1 *mentary thereto (32 Stat. 388, chapter 1093; 43*
2 *U.S.C. 371 et seq.) (including regulations adopted*
3 *pursuant to those Acts).*

4 (3) *PROJECT.*—*The term “Project” means the*
5 *Collbran Reclamation Project, as constructed and op-*
6 *erated under the Act of July 3, 1952 (66 Stat. 325,*
7 *chapter 565), including all property, equipment, and*
8 *assets of or relating to the Project that are owned by*
9 *the United States, including—*

10 (A) *Vega Dam and Reservoir (but not in-*
11 *cluding The Vega Recreation Facilities);*

12 (B) *Leon-Park Dams and Feeder Canal;*

13 (C) *Southside Canal;*

14 (D) *East Fork Diversion Dam and Feeder*
15 *Canal;*

16 (E) *Bonham-Cottonwood Pipeline;*

17 (F) *Snowcat Shed and Diesel Storage;*

18 (G) *Upper Molina Penstock and Power*
19 *Plant;*

20 (H) *Lower Molina Penstock and Power*
21 *Plant;*

22 (I) *the diversion structure in the tailrace of*
23 *the Lower Molina Power Plant;*

24 (J) *all substations and switchyards;*

1 (K) a non-exclusive easement for the use of
2 existing easements or rights-of-way owned by the
3 United States on or across nonfederal lands
4 which are necessary for access to Project facili-
5 ties;

6 (L) title to lands reasonably necessary for
7 all Project facilities except for land described in
8 subparagraph (K) or subsection (c)(1)(B) or (C);

9 (M) all permits and contract rights held by
10 the Bureau of Reclamation, including, without
11 limitation, contract or other rights relating to
12 the operation, use, maintenance, repair, or re-
13 placement of the water storage reservoirs located
14 on the Grand Mesa which are operated as a part
15 of the Project;

16 (N) all equipment, parts inventories, and
17 tools;

18 (O) all additions, replacements, betterments,
19 and appurtenances to any of the above; and

20 (P) a copy of all data, plans, designs, re-
21 ports, records, or other materials, whether in
22 writing or in any form of electronic storage re-
23 lating specifically to the Project.

24 (4) VEGA RECREATION FACILITIES.—The term
25 “Vega Recreation Facilities” includes, but is not lim-

1 *ited to, buildings, campgrounds, picnic areas, parking*
2 *lots, fences, boat docks and ramps, electrical lines,*
3 *water and sewer systems, trash and toilet facilities,*
4 *roads and trails, and other structures and equipment*
5 *used for State park purposes at and near Vega Res-*
6 *ervoir such as recreation, maintenance and daily and*
7 *overnight visitor use, and lands above the high water*
8 *level of Vega Reservoir within the area previously de-*
9 *fined by the Department of the Interior as the “Res-*
10 *ervoir Area Boundary” which have not historically*
11 *been utilized for Collbran Project water storage and*
12 *delivery facilities, together with an easement for pub-*
13 *lic access for recreational purposes to Vega Reservoir*
14 *and the water surface thereof, and construction, oper-*
15 *ation, maintenance and replacement of such recre-*
16 *ation facilities below the high water line. Such facili-*
17 *ties shall also include improvements constructed or*
18 *added as a result of the agreements referred to in sec-*
19 *tion (c)(6).*

20 *(c) CONVEYANCE OF THE COLLBRAN PROJECT.—*

21 *(1) IN GENERAL.—*

22 *(A) CONVEYANCE TO DISTRICTS.—The Sec-*
23 *retary of the Interior shall convey to the Dis-*
24 *tricts all right, title, and interest of the United*
25 *States in and to the Project, as described in sub-*

1 *section (b)(3), by quitclaim deed and bill of sale,*
2 *without warranties, in the last quarter of fiscal*
3 *year 2000, subject only to the requirements of*
4 *this section. Until such conveyance occurs, the*
5 *Bureau of Reclamation shall continue to provide*
6 *for the operation, maintenance, repair, and re-*
7 *placement of Project facilities and the storage*
8 *reservoirs on the Grand Mesa to the extent such*
9 *responsibilities are the responsibility of the Bu-*
10 *reau of Reclamation and have not been delegated*
11 *to the Districts prior to the date of enactment of*
12 *this Act or are delegated or transferred to the*
13 *Districts by agreement thereafter, so that at the*
14 *time of conveyance such facilities are in the same*
15 *condition as, or better condition than, the condi-*
16 *tion of the facilities on the date of enactment of*
17 *this Act.*

18 (B) *EASEMENTS ON NATIONAL FOREST SYS-*
19 *TEM LANDS.—The Secretary of Agriculture shall*
20 *grant, in the last quarter of fiscal year 2000,*
21 *subject only to the requirements of this section;*
22 *(i) a non-exclusive easement on and across Na-*
23 *tional Forest System lands to the Districts for*
24 *ingress and egress on existing access routes to*
25 *each existing component of the Project and to the*

1 *existing storage reservoirs on the Grand Mesa*
2 *which are operated as a part of the Project; (ii)*
3 *a non-exclusive easement on National Forest*
4 *System lands for the operation, use, mainte-*
5 *nance, repair, and replacement, but not enlarge-*
6 *ment, of the existing storage reservoirs on the*
7 *Grand Mesa to the owners and operators of such*
8 *reservoirs which are operated as a part of the*
9 *Project; which easement may be exercised in the*
10 *event that the existing land use authorizations*
11 *for such storage reservoirs are restricted, termi-*
12 *nated, relinquished, or abandoned, and which*
13 *easement shall not be subject to conditions or re-*
14 *quirements that interfere with or limit the use of*
15 *such reservoirs for water supply or power pur-*
16 *poses; and (iii) a non-exclusive easement to the*
17 *Districts for the operation, use, maintenance, re-*
18 *pair, and replacement, but not enlargement, of*
19 *those components of Project facilities which are*
20 *located on National Forest System lands, subject*
21 *to the requirement that the Districts shall pro-*
22 *vide reasonable notice to and the opportunity for*
23 *consultation with the designated representative of*
24 *the Secretary of Agriculture for non-routine,*

1 *non-emergency activities that occur on such ease-*
2 *ments.*

3 (C) *EASEMENTS TO DISTRICTS FOR SOUTH-*
4 *SIDE CANAL.—The Secretary of the Interior shall*
5 *grant to the Districts, in the last quarter of fiscal*
6 *year 2000, subject only to the requirements of*
7 *this section, (i) a non-exclusive easement on and*
8 *across lands administered by agencies within the*
9 *Department of the Interior for ingress and egress*
10 *on existing access routes to and along the South-*
11 *side Canal, and (ii) a non-exclusive easement for*
12 *the operation, use, maintenance, repair, and re-*
13 *placement of the Southside Canal, subject to the*
14 *requirement that the Districts shall provide rea-*
15 *sonable notice to and the opportunity for con-*
16 *sultation with the designated representative of*
17 *the Secretary of the Interior for non-routine,*
18 *non-emergency activities that occur on such ease-*
19 *ments.*

20 (2) *RESERVATION.—The transfer of rights and*
21 *interests pursuant to paragraphs (1)(A), (B), and (C)*
22 *shall reserve to the United States all minerals, includ-*
23 *ing hydrocarbons, and a perpetual right of public ac-*
24 *cess over, across, under, and to the portions of the*
25 *Project which on the date of enactment of this Act*

1 *were open to public use for fishing, boating, hunting,*
2 *and other outdoor recreation purposes and other pub-*
3 *lic uses such as grazing, mineral development and*
4 *logging: Provided, That the United States may allow*
5 *for continued public use and enjoyment of such por-*
6 *tions of the Project for recreational activities and*
7 *other public uses conducted as of the date of enact-*
8 *ment of this Act.*

9 (3) *CONVEYANCE TO STATE OF COLORADO.—All*
10 *right, title, and interest in the Vega Recreation Fa-*
11 *cilities shall remain in the United States until the*
12 *terms of the agreements referred to in paragraph (6)*
13 *have been fulfilled by the United States. At such time,*
14 *all right, title, and interest in the Vega Recreation*
15 *Facilities shall be conveyed by the Secretary of the In-*
16 *terior to the State of Colorado, Division of Parks and*
17 *Outdoor Recreation.*

18 (4) *PAYMENT.—*

19 (A) *IN GENERAL.—At the time of transfer,*
20 *the Districts shall pay to the United States*
21 *\$12,900,000 (\$12,300,000 of which represents the*
22 *net present value of the outstanding repayment*
23 *obligations for the Project), of which—*

1 (i) \$12,300,000 shall be deposited in
2 the general fund of the United States Treas-
3 ury; and

4 (ii) \$600,000 shall be deposited in a
5 special account in the United States Treas-
6 ury and shall be available to the United
7 States Fish and Wildlife Service, Region 6,
8 without further appropriation, for use in
9 funding Colorado operations and capital ex-
10 penditures associated with the Grand Valley
11 Water Management Project for the purpose
12 of recovering endangered fish in the Upper
13 Colorado River Basin, as identified in the
14 Recovery Implementation Program for En-
15 dangered Fish Species in the Upper Colo-
16 rado River Basin, or such other component
17 of the Recovery Implementation Program
18 within Colorado that is selected with the
19 concurrence of the Governor of the State of
20 Colorado.

21 (B) SOURCE OF FUNDS.—Funds for the
22 payment to the extent of the amount specified in
23 subparagraph (A) shall not be derived from the
24 issuance or sale, prior to the conveyance, of State
25 or local bonds the interest on which is exempt

1 *from taxation under section 103 of the Internal*
2 *Revenue Code of 1986.*

3 (5) *OPERATION OF PROJECT.*—

4 (A) *IN GENERAL.*—*The Project was author-*
5 *ized and constructed to place water to beneficial*
6 *use for authorized purposes within the State of*
7 *Colorado. The Project shall be operated and used*
8 *by the Districts for a period of 40 years after the*
9 *date of enactment of this Act for the purposes for*
10 *which the Project was authorized under the Act*
11 *of July 3, 1952 (66 Stat. 325, chapter 565). The*
12 *Districts shall attempt to the extent practicable,*
13 *taking into consideration historic Project oper-*
14 *ations, to notify the State of Colorado of changes*
15 *in historic Project operations which may ad-*
16 *versely affect State park operations.*

17 (B) *REQUIREMENTS.*—*During the 40-year*
18 *period described in subparagraph (A)—*

19 (i) *the Districts shall annually submit*
20 *to the Secretary of Agriculture and the Col-*
21 *orado Department of Natural Resources a*
22 *plan for operation of the Project, which*
23 *plan shall—*

24 (I) *report on Project operations*
25 *for the previous year;*

1 (II) provide a description of the
2 manner of Project operations antici-
3 pated for the forthcoming year, which
4 shall be prepared after consultation
5 with the designated representatives of
6 the Secretary of Agriculture, the Board
7 of County Commissioners of Mesa
8 County, Colorado, and the Colorado
9 Department of Natural Resources; and

10 (III) certify that the Districts
11 have operated and will operate and
12 maintain the Project facilities in ac-
13 cordance with sound engineering prac-
14 tices; and

15 (ii) subject to subsection (d), all elec-
16 tric power generated by operation of the
17 Project shall be made available to and be
18 marketed by the Western Area Power Ad-
19 ministration (including its successors or as-
20 signs).

21 (6) AGREEMENTS.—Conveyance of the Project
22 shall be subject to the agreements between the United
23 States and the State of Colorado dated August 22,
24 1994, and September 23, 1994, relating to the con-
25 struction and operation of recreational facilities at

1 *Vega Reservoir, which agreements shall continue to be*
2 *performed by the parties thereto according to the*
3 *terms of the agreements.*

4 *(d) OPERATION OF THE POWER COMPONENT.—*

5 *(1) CONFORMITY TO HISTORIC OPERATIONS.—*

6 *The power component and facilities of the Project*
7 *shall be operated in substantial conformity with the*
8 *historic operations of the power component and facili-*
9 *ties (including recent operations in a peaking mode).*

10 *(2) POWER MARKETING.—*

11 *(A) EXISTING MARKETING ARRANGE-*

12 *MENT.—The Post-1989 Marketing Criteria,*
13 *which provide for the marketing of power gen-*
14 *erated by the power component of the Project as*
15 *part of the output of the Salt Lake City Area In-*
16 *tegrated Projects, shall no longer be binding on*
17 *the Project upon conveyance of the Project under*
18 *subsection (c)(1).*

19 *(B) AFTER TERMINATION OF EXISTING MAR-*

20 *KETING ARRANGEMENT.—*

21 *(i) IN GENERAL.—After the convey-*

22 *ance, the Districts shall offer all power pro-*
23 *duced by the power component of the Project*
24 *to the Western Area Power Administration*
25 *or its successors or assigns (referred to in*

1 *this section as “Western”), which, in con-*
2 *sultation with its affected preference cus-*
3 *tomers, shall have the first right to purchase*
4 *such power at the rates established in ac-*
5 *cordance with clause (i). If Western de-*
6 *clines to purchase the power after consulta-*
7 *tion with its affected preference customers,*
8 *such power shall then be offered at the same*
9 *rates first to Western’s preference customers*
10 *located in the Salt Lake City Area Inte-*
11 *grated Projects marketing area (referred to*
12 *in this section as the “SLCAIP preference*
13 *customers”). Thereafter, such power may be*
14 *sold to any other party: Provided, however,*
15 *That no such sale may occur at rates less*
16 *than rates established in accordance with*
17 *clause (i) unless such power is first offered*
18 *at such lesser rate first to Western and then*
19 *to its SLCAIP preference customers.*

20 *(ii) The rate for power initially offered*
21 *to Western and its SLCAIP preference cus-*
22 *tomers under this paragraph shall not ex-*
23 *ceed that required to produce revenues suffi-*
24 *cient to provide for*

1 (I) annual debt service and/or
2 recoupment of the cost of capital for
3 the amount specified in subsection
4 (c)(4)(A)(i) of this section, less the sum
5 of \$310,000 (which is the net present
6 value of the outstanding repayment ob-
7 ligation of the Collbran Conservancy
8 District), and

9 (II) the cost of operation, mainte-
10 nance, and replacement of the power
11 component of the Project.

12 Such costs and rate shall be determined in
13 a manner consistent with the current prin-
14 ciples followed by the Secretary of the Inte-
15 rior and by Western in its annual power
16 and repayment study.

17 (e) LICENSE.—

18 (1) Prior to the conveyance of the Project to the
19 Districts, the Commission shall issue to the Districts
20 a license or licenses as appropriate under part I of
21 the Federal Power Act, as amended, (16 U.S.C. 791
22 et seq.), authorizing for a term of 40 years the contin-
23 ued operation and maintenance of the power compo-
24 nent of the Project.

25 (2) The license issued pursuant to subsection (1):

1 (A) shall be for the purpose of operating,
2 using, maintaining, repairing, and replacing the
3 power component of the Project as authorized by
4 the Act of July 3, 1952 (66 Stat. 325, chapter
5 565);

6 (B) shall be conditioned upon the require-
7 ment that the power component of the project
8 continue to be operated and maintained in ac-
9 cordance with the authorized purposes of the
10 project;

11 (C) shall be subject only to the provisions of
12 Part I of the Federal Power Act, except the word
13 “constructed” in section 3(10); the four provisos
14 of section 4(e); section 6 to the extent it requires
15 the licensee’s acceptance of those terms and con-
16 ditions of the Act that this subsection waives;
17 section 10(e) as concerns annual charges for the
18 use and occupancy of federal lands and facilities;
19 section 10(f); section 10(j); section 18; section 19;
20 section 20; and section 22 of the Federal Power
21 Act, 16 U.S.C. 796(10), 797(e), 799, 803(e),
22 803(f), 803(j), 811, 812, 813, and 815; and shall
23 not be subject to the standard “L-Form” license
24 conditions, published at 54 FPC 1792-1928
25 (1975), the Federal Land Policy and Manage-

1 *ment Act (43 U.S.C. 1701 et seq.), as amended,*
2 *section 2402 of the Energy Policy Act of 1992*
3 *(16 U.S.C. 797c), the National Environmental*
4 *Policy Act of 1969 (42 U.S.C. 4321 et seq.), the*
5 *Endangered Species Act of 1973 (16 U.S.C. 1531*
6 *et seq.), the Wild and Scenic Rivers Act (16*
7 *U.S.C. 1271 et seq.), the Federal Water Pollution*
8 *Control Act (commonly known as the “Clean*
9 *Water Act”) (33 U.S.C. 1251 et seq.), the Na-*
10 *tional Historic Preservation Act (16 U.S.C. 470*
11 *et seq.), the Coastal Zone Management Act of*
12 *1972 (16 U.S.C. 1451 et seq.), the Fish and*
13 *Wildlife Coordination Act (16 U.S.C. 661 et*
14 *seq.), or any other Act otherwise applicable to*
15 *the licensing of the project.*

16 *(3) The license issued under paragraph (1) is*
17 *deemed to meet the licensing standards of the Federal*
18 *Power Act, including section 10(a) and the last sen-*
19 *tence of section 4(e), 16 U.S.C. 797(e).*

20 *(4) Any power site reservation established by the*
21 *President, the Secretary of the Interior, or pursuant*
22 *to section 24 of the Federal Power Act (16 U.S.C.*
23 *818) or any other law, which exists on any lands,*
24 *whether federally or privately owned, that are in-*
25 *cluded within the boundaries of the project shall be*

1 *vacated by operation of law upon issuance of the li-*
2 *cence for the project.*

3 (5) *All requirements of Part I of the Federal*
4 *Power Act and of any other Act applicable to the li-*
5 *censing of a hydroelectric project shall apply to the*
6 *project upon expiration of the license issued under*
7 *this section.*

8 (6) *For purposes of this section, "Commission"*
9 *means the Federal Energy Regulatory Commission.*

10 (7) *The operation of the Project shall be subject*
11 *to all applicable state and federal laws subsequent to*
12 *the issuance of the license pursuant to paragraph (1).*

13 (f) *INAPPLICABILITY OF NEPA.—Neither the convey-*
14 *ance of the Project nor the issuance of easements pursuant*
15 *to this section constitutes a major Federal action within*
16 *the meaning of the National Environmental Policy Act of*
17 *1969 (42 U.S.C. 4321 et seq.), including any regulations*
18 *issued under such Act.*

19 (g) *INAPPLICABILITY OF PRIOR AGREEMENTS AND OF*
20 *FEDERAL RECLAMATION LAWS.—On conveyance of the*
21 *Project to the Districts—*

22 (1) *the Repayment Contract dated May 27,*
23 *1957, as amended April 12, 1962, between the*
24 *Collbran Conservancy District and the United States,*
25 *and the Contract for use of Project facilities for Di-*

1 *version of Water dated January 11, 1962, as amended*
2 *November 10, 1977, between the Ute Water Conser-*
3 *vancy District and the United States, shall be termi-*
4 *nated and of no further force or effect; and*

5 *(2) the Project shall no longer be subject to or*
6 *governed by the Federal reclamation laws.*

7 *(h) DISTRICTS' LIABILITY.—The Districts shall be lia-*
8 *ble, to the extent allowed under State law, for all acts or*
9 *omissions relating to the operation and use of the Project*
10 *by the Districts that occur subsequent to the conveyance*
11 *under section (c), including damages to Federal lands or*
12 *facilities which result from the failure of Project facilities.*

13 *(i) EFFECT ON STATE LAW.—Nothing in this section*
14 *shall be construed to impair the effectiveness of any State*
15 *or local law (including regulations) relating to land use.*

16 *(j) TREATMENT OF SALES FOR PURPOSES OF CERTAIN*
17 *LAWS.—The sales of assets under this subchapter shall not*
18 *be considered a disposal of Federal surplus property under*
19 *the following provisions of law:*

20 *(1) Section 203 of the Federal Property and Ad-*
21 *ministrative Services Act of 1949 (40 U.S.C. 484).*

22 *(2) Section 13 of the Surplus Property Act of*
23 *1944 (50 U.S.C. App. 1622).*

Subchapter D—Sly Park**SEC. 5356. SLY PARK.**

(a) *SHORT TITLE.*—This subchapter may be cited as the “Sly Park Unit Conveyance Act”.

(b) *DEFINITIONS.*—For purposes of this subchapter:

(1) The term “El Dorado Irrigation District” or “District” means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term “Sly Park Unit” means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel and conduits and canals as authorized under the Act entitled “An Act to authorize the American River Basin development, California, for irrigation and reclamation, and for other purposes”, approved October 14, 1949 (63 Stat. 852 chapter 690), together with all other facilities owned by the United States including those used to convey and store water delivered from Sly Park, as well as all recreation facilities associated thereto.

(c) *SALE OF THE SLY PARK UNIT.*—

1 (1) *IN GENERAL.*—*The Secretary shall, on or be-*
2 *fore December 31, 1997, and upon receipt of the pay-*
3 *ment for the original construction debt described in*
4 *paragraph (2), sell and convey to the El Dorado Irri-*
5 *gation District all right, title, and interest of the*
6 *United States in and to the Sly Park Unit. At the*
7 *time the Sly Park Unit is conveyed, the Secretary*
8 *shall also transfer and assign to the District the water*
9 *rights relating to the Sly Park Unit held in trust by*
10 *the Secretary for diversion and storage under Califor-*
11 *nia State permits numbered 2631, 5645A, 10473, and*
12 *10474.*

13 (2) *SALE PRICE.*—*The sale price for the Sly*
14 *Park Unit shall be \$3,993,982, which is the outstand-*
15 *ing balance for the original construction of the Sly*
16 *Park Unit payable to the United States. Payment*
17 *shall be deposited as miscellaneous receipts in the*
18 *Treasury and credited to the Central Valley Project*
19 *Restoration Fund. Payment of such price shall extin-*
20 *guish all payment obligations under contract num-*
21 *bered 14-06-200-949 between the District and the Sec-*
22 *retary.*

23 (d) *NO ADDITIONAL ENVIRONMENTAL IMPACT.*—*The*
24 *Congress specifically finds that (A) the sale, conveyance and*
25 *assignment of the Sly Park Unit and water rights under*

1 *this section involves the transfer of the ownership and oper-*
2 *ation of an existing ongoing water project, (B) the Sly Park*
3 *Unit operation, facilities, and water rights have been, and*
4 *after the sale and transfer will continue to be, committed*
5 *to maximum reasonable and beneficial use for existing serv-*
6 *ices, and (C) the sale, conveyance and assignment of the*
7 *Sly Park Unit and water rights does not involve any addi-*
8 *tional growth or expansion of the project or other environ-*
9 *mental impacts. Consequently, the sale, conveyance and as-*
10 *signment of the Sly Park Unit and water rights shall not*
11 *be subject to environmental review pursuant to the National*
12 *Environmental Policy Act of 1969 (42 U.S.C. 4332) or en-*
13 *dangered species review or consultation pursuant to section*
14 *7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).*

15 *(e) CERTAIN CONTRACT OBLIGATIONS NOT AF-*
16 *FECTED.—The sale of the Sly Park Unit under this section*
17 *shall not affect the payment obligations of the District*
18 *under the contract between the District and the Secretary*
19 *numbered 14-06-200-7734, as amended by contracts num-*
20 *bered 14-06-200-4282A and 14-06-200-8536A.*

21 *(f) TREATMENT OF SALES FOR PURPOSES OF CERTAIN*
22 *LAWS.—The sales of assets under this subchapter part shall*
23 *not be considered a disposal of Federal surplus property*
24 *under the following provisions of law:*

1 (1) *Section 203 of the Federal Property and Ad-*
2 *ministrative Services Act of 1949 (40 U.S.C. 484).*

3 (2) *Section 13 of the Surplus Property Act of*
4 *1944 (50 U.S.C. App. 1622).*

5 ***Subchapter E—Central Utah Project***

6 ***SEC. 5357. PREPAYMENT OF CERTAIN REPAYMENT CON-***
7 ***TRACTS BETWEEN THE UNITED STATES AND***
8 ***THE CENTRAL UTAH WATER CONSERVANCY***
9 ***DISTRICT.***

10 *The second sentence of section 210 of the Central Utah*
11 *Project Completion Act (106 Stat. 4624) is amended to read*
12 *as follows: “The Secretary shall allow for prepayment of*
13 *the repayment contract between the United States and the*
14 *Central Utah Water Conservancy District dated December*
15 *28, 1965, and supplemented on November 26, 1985, provid-*
16 *ing for repayment of municipal and industrial water deliv-*
17 *ery facilities for which repayment is provided pursuant to*
18 *such contract, under terms and conditions similar to those*
19 *contained in the supplemental contract that provided for*
20 *the prepayment of the Jordan Aqueduct dated October 28,*
21 *1993. The prepayment may be provided in several install-*
22 *ments to reflect substantial completion of the delivery facili-*
23 *ties being prepaid and may not be adjusted on the basis*
24 *of the type of prepayment financing utilized by the District:*
25 *Provided That the District shall complete all payments au-*

1 *thorized pursuant to this section by the end of fiscal year*
2 *2002.”.*

3 **CHAPTER 4—FEDERAL OIL AND GAS**
4 **ROYALTIES**

5 **SEC. 5361. DEFINITIONS.**

6 *Section 3 of the Federal Oil and Gas Royalty Manage-*
7 *ment Act of 1982 (30 U.S.C. 1701 et seq.) is amended—*

8 *(1) by amending paragraph (7) to read as fol-*
9 *lows:*

10 *“(7) ‘lessee’ means any person to whom the Unit-*
11 *ed States issues an oil and gas lease or any person*
12 *to whom operating rights in a lease have been as-*
13 *signed;”;* and

14 *(2) by striking “and” at the end of paragraph*
15 *(15), by striking the period at the end of paragraph*
16 *(16) and inserting a semicolon, and by adding at the*
17 *end the following:*

18 *“(17) ‘adjustment’ means an amendment to a*
19 *previously filed report on an obligation, and any ad-*
20 *ditional payment or credit, if any, applicable thereto,*
21 *to rectify an underpayment or overpayment on a*
22 *lease;*

23 *“(18) ‘administrative proceeding’ means any De-*
24 *partment of the Interior agency process in which a*
25 *demand, decision or order issued by the Secretary or*

1 *a delegated State is subject to appeal or has been ap-*
2 *pealed;*

3 *“(19) ‘assessment’ means any fee or charge levied*
4 *or imposed by the Secretary or a delegated State other*
5 *than—*

6 *“(A) the principal amount of any royalty,*
7 *minimum royalty, rental, bonus, net profit share*
8 *or proceed of sale;*

9 *“(B) any interest; or*

10 *“(C) any civil or criminal penalty;*

11 *“(20) ‘commence’ means—*

12 *“(A) with respect to a judicial proceeding,*
13 *the service of a complaint, petition, counter-*
14 *claim, crossclaim, or other pleading seeking af-*
15 *firmative relief or seeking credit or recoupment;*
16 *or*

17 *“(B) with respect to a demand, the receipt*
18 *by the Secretary or a delegated State or a lessee*
19 *of the demand;*

20 *“(21) ‘credit’ means the application of an over-*
21 *payment (in whole or in part) against an obligation*
22 *which has become due to discharge, cancel or reduce*
23 *the obligation;*

24 *“(22) ‘delegated State’ means a State which,*
25 *pursuant to an agreement or agreements under sec-*

1 *tion 205, performs authorities, duties, responsibilities,*
2 *or activities of the Secretary which may be performed*
3 *by a State under the Constitution of the United*
4 *States for all lands within the State, including, but*
5 *not limited to—*

6 *“(A) activities under sections 111 and 115;*

7 *“(B) collection, audit, lease and post-lease*
8 *management activities, and applicable enforce-*
9 *ment activities;*

10 *“(C) inspections (including activities de-*
11 *scribed in section 108;*

12 *“(D) approval of pooling, unitization, and*
13 *communitization agreements; and*

14 *“(E) investigations;*

15 *“(23) ‘demand’ means—*

16 *“(A) an order to pay issued by the Sec-*
17 *retary or the applicable delegated State that has*
18 *a reasonable basis to conclude that the obligation*
19 *in the amount of the demand is due and owing;*
20 *or*

21 *“(B) a separate written request by a lessee*
22 *which asserts an obligation due the lessee that*
23 *has a reasonable basis to conclude that the obli-*
24 *gation in the amount of the demand is due and*
25 *owing, but does not mean any royalty or produc-*

1 *tion report, or any information contained there-*
2 *in, required by the Secretary or a delegated*
3 *State;*

4 “(24) ‘obligation’ means—

5 “(A) any duty of the Secretary or, if appli-
6 *cable, a delegated State—*

7 “(i) to take oil or gas royalty in kind
8 *at or near the lease (unless the lease ex-*
9 *pressly provides for delivery at a different*
10 *location); or*

11 “(ii) to pay, refund, offset, or credit
12 *monies including but not limited to)—*

13 “(I) the principal amount of any
14 *royalty, minimum royalty, rental,*
15 *bonus, net profit share or proceed of*
16 *sale; or*

17 “(II) any interest;

18 “(B) any duty of a lessee—

19 “(i) to deliver oil or gas royalty in
20 *kind at or near the lease (unless the lease*
21 *expressly provides for delivery at a different*
22 *location); or*

23 “(ii) to pay, offset or credit monies in-
24 *cluding but not limited to)—*

1 “(I) the principal amount of any
2 royalty, minimum royalty, rental,
3 bonus, net profit share or proceed of
4 sale;

5 “(II) any interest;

6 “(III) any penalty; or

7 “(IV) any assessment, which
8 arises from or relates to any lease ad-
9 ministered by the Secretary for, or any
10 mineral leasing law related to, the ex-
11 ploration, production and development
12 of oil or gas on Federal lands or the
13 Outer Continental Shelf;

14 “(25) ‘order to pay’ means a written order is-
15 sued by the Secretary or the applicable delegated
16 State which—

17 “(A) asserts a specific, definite, and quan-
18 tified obligation claimed to be due, and

19 “(B) specifically identifies the obligation by
20 lease, production month and monetary amount
21 of such obligation claimed to be due and ordered
22 to be paid, as well as the reason or reasons such
23 obligation is claimed to be due, but such term
24 does not include any other communication or ac-

1 *tion by or on behalf of the Secretary or a dele-*
2 *gated State;*

3 “(26) ‘overpayment’ means any payment by a
4 *lessee in excess of an amount legally required to be*
5 *paid on an obligation and includes the portion of any*
6 *estimated payment for a production month that is in*
7 *excess of the royalties due for that month;*

8 “(27) ‘payment’ means satisfaction, in whole or
9 *in part, of an obligation;*

10 “(28) ‘penalty’ means a statutorily authorized
11 *civil fine levied or imposed for a violation of this Act,*
12 *any mineral leasing law, or a term or provision of*
13 *a lease administered by the Secretary;*

14 “(29) ‘refund’ means the return of an overpay-
15 *ment;*

16 “(30) ‘State concerned’ means, with respect to a
17 *lease, a State which receives a portion of royalties or*
18 *other payments under the mineral leasing laws from*
19 *such lease;*

20 “(31) ‘underpayment’ means any payment or
21 *nonpayment by a lessee that is less than the amount*
22 *legally required to be paid on an obligation; and*

23 “(32) ‘United States’ means the United States
24 *Government and any department, agency, or instru-*

1 (b) *DETERMINATION.*—Section 205(b) of the Federal
2 *Oil and Gas Royalty Management Act of 1982 (30 U.S.C.*
3 *1735(b)) is amended by striking “is authorized to” and in-*
4 *serting “shall”.*

5 (c) *FEDERAL-STATE ROYALTY COLLECTION EF-*
6 *FORTS.*—Subsection (c) section 205 of the Federal Oil and
7 *Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is*
8 *amended by striking “which define” and all that follows*
9 *and inserting “within 18 months after the date of enact-*
10 *ment of section 115, under which States may perform the*
11 *authorities, duties, responsibilities, and activities under*
12 *this title which are subject to delegation, based on the rec-*
13 *ommendations of the States concerned following consulta-*
14 *tion with affected persons. If the Secretary decides not to*
15 *follow any recommendations supported by all States con-*
16 *cerned, the Secretary shall justify such decision within 30*
17 *days after making such decision. In carrying out this sec-*
18 *tion the Secretary shall provide for reasonable flexibility to*
19 *a State to perform any authority, duty, responsibility or*
20 *activity delegated hereunder in a more efficient and cost-*
21 *effective manner and provide the States concerned a direct*
22 *role in determining such requirements, procedures and poli-*
23 *cies. To ensure efficient and timely collections of royalties*
24 *pursuant to this Act, the delegated States shall provide—*

1 “(1) for the effective and efficient performance of
2 any authority, duty, responsibility or activity dele-
3 gated under this Act;

4 “(2) for the consistent and uniform performance
5 among the delegated States of any authority, duty, re-
6 sponsibility or activity delegated under this Act;

7 “(3) for valuation under the terms of the leases
8 and applicable Federal statutes; and

9 “(4) for uniform reporting form and reporting
10 requirements for all Federal lessees, unless the State
11 and all affected parties otherwise agree.”.

12 (d) *PERFORMANCE*.—Subsection (d) of section 205 of
13 the Federal Oil and Gas Royalty Management Act of 1982
14 (30 U.S.C. 1735) is amended by striking “, pertaining” and
15 all that follows and inserting the following: “for require-
16 ments pertaining to records and accounts to be maintained
17 and reporting procedures to be required by delegated States
18 under this section. The records and accounts under such re-
19 porting procedures shall be sufficient to allow the Secretary
20 to monitor the performance of any delegated State under
21 this section. The applicable delegated State and the Sec-
22 retary shall agree to terms and conditions for inclusion into
23 an agreement to perform all or part of the authorities, du-
24 ties, responsibilities, and activities under this title consist-
25 ent with subsection (c).”.

1 (e) *STATE ACTIONS*.—Section 204 of the Federal Oil
2 and Gas Royalty Management Act of 1982 (30 U.S.C. 1734)
3 is amended by adding at the end the following:

4 “(d) With respect to enforcement of an obligation
5 under this Act, a State bringing an action under this sec-
6 tion shall enjoy no greater rights than the Secretary enjoys
7 under this Act.”.

8 (f) *SAVINGS PROVISION*.—Nothing in the amendments
9 made by this section shall impair any agreement, or any
10 extension thereof, existing under section 205 as in effect on
11 the day before the date of enactment of this Act. Following
12 enactment of this Act, any State which is a party to an
13 existing agreement under such section under which the
14 State has been delegated audit or inspection responsibility,
15 may issue orders to pay, subpoenas, or notices to perform
16 restructured accounting and may continue to perform au-
17 dits or inspections under terms and conditions consistent
18 with the Federal Oil and Gas Royalty Management Act of
19 1982 (30 U.S.C. 1701 et seq.), as amended by this chapter.

20 (g) *RECEIPTS*.—Section 205(f) of the Federal Oil and
21 Gas Royalty Management Act of 1982 (30 U.S.C. 1735(f))
22 is amended by adding at the end the following: “Such costs
23 shall be allocable for the purposes of section 35(b) of the
24 Act entitled “An Act to promote the mining of coal, phos-
25 phate, oil, oil shale, gas, and sodium on the public domain”,

1 approved February 25, 1920 (commonly known as the
 2 “Mineral Leasing Act”) (30 U.S.C. 191(b)) to the adminis-
 3 tration and enforcement of laws providing for the leasing
 4 of any onshore lands or interests in land owned by the Unit-
 5 ed States. The Secretary shall compensate any State in the
 6 next succeeding fiscal year for the aggregate amount of such
 7 costs incurred but not compensated due to such allocation
 8 for the current fiscal year. All money received from sales,
 9 bonuses, royalties, and interest, including money claimed
 10 to be due and owing pursuant to a delegation under this
 11 section, shall be payable and paid to the Treasury of the
 12 United States.”.

13 **SEC. 5363. SECRETARIAL AND DELEGATED STATES’ AC-**
 14 **TIONS AND LIMITATION PERIODS.**

15 (a) *IN GENERAL.*—The Federal Oil and Gas Royalty
 16 Management Act of 1982 (30 U.S.C. 1701 et seq.) is amend-
 17 ed by adding after section 114 the following new section:

18 **“SEC. 115. SECRETARIAL AND DELEGATED STATES’ AC-**
 19 **TIONS AND LIMITATION PERIODS.**

20 “(a) *IN GENERAL.*—All duties, responsibilities, and
 21 activities with respect to a lease shall be performed by the
 22 Secretary, delegated States, and lessees in a timely manner.

23 “(b) *LIMITATION PERIOD.*—

24 “(1) A judicial proceeding or demand which
 25 arises from, or relates to an obligation, shall be com-

1 *menced within six years from the date on which the*
2 *obligation becomes due and if not so commenced shall*
3 *be barred. The Secretary, a delegated State, or a lessee*
4 *(A) shall not take any other or further action regard-*
5 *ing that obligation, including (but not limited to) the*
6 *issuance of any order, request, demand or other com-*
7 *munication seeking any document, accounting, deter-*
8 *mination, calculation, recalculation, payment, prin-*
9 *icipal, interest, assessment, or penalty or the initi-*
10 *ation, pursuit or completion of an audit with respect*
11 *to that obligation; and (B) shall not pursue any other*
12 *equitable or legal remedy, whether under statute or*
13 *common law, with respect to an action on or an en-*
14 *forcement of said obligation.*

15 *“(2) The limitations set forth in sections 2401,*
16 *2415, 2416, and 2462 of title 28, United States Code*
17 *and section 42 of the Mineral Leasing Act (30 U.S.C.*
18 *226-2) shall not apply to any obligation to which this*
19 *Act applies. Section 3716 of title 31, United States*
20 *Code, may be applied to an obligation the enforce-*
21 *ment of which is not barred by this Act, but may not*
22 *be applied to any obligation the enforcement of which*
23 *is barred by this Act.*

24 *“(c) OBLIGATION BECOMES DUE.—*

1 “(1) *IN GENERAL.*—*For purposes of this Act, an*
2 *obligation becomes due when the right to enforce the*
3 *obligation is fixed.*

4 “(2) *ROYALTY OBLIGATIONS.*—*The right to en-*
5 *force any royalty obligation for any given production*
6 *month for a lease is fixed for purposes of this Act on*
7 *the last day of the calendar month following the*
8 *month in which oil or gas is produced.*

9 “(d) *TOLLING OF LIMITATION PERIOD.*—*The running*
10 *of the limitation period under subsection (b) shall not be*
11 *suspended, tolled, extended, or enlarged for any obligation*
12 *for any reason by any action, including an action by the*
13 *Secretary or a delegated State, other than the following:*

14 “(1) *TOLLING AGREEMENT.*—*A written agree-*
15 *ment executed during the limitation period between*
16 *the Secretary or a delegated State and a lessee which*
17 *tolls the limitation period for the amount of time dur-*
18 *ing which the agreement is in effect.*

19 “(2) *SUBPOENA.*—

20 “(A) *The issuance of a subpoena to a lessee*
21 *in accordance with the provisions of subsection*
22 *(B)(i) shall toll the limitation period with re-*
23 *spect to the obligation which is the subject of a*
24 *subpoena only for the period beginning on the*
25 *date the lessee receives the subpoena and ending*

1 on the date on which (i) the lessee has produced
2 such subpoenaed records for the subject obliga-
3 tion, (ii) the Secretary or a delegated State re-
4 ceives written notice that the subpoenaed records
5 for the subject obligation are not in existence or
6 are not in the lessee's possession or control, or
7 (iii) a court has determined in a final decision
8 that such records are not required to be pro-
9 duced, whichever occurs first.

10 “(B)(i) A subpoena for the purposes of this
11 section which requires a lessee to produce records
12 necessary to determine the proper reporting and
13 payment of an obligation due the Secretary may
14 be issued only by an Assistant Secretary of the
15 Interior or an acting Assistant Secretary of the
16 Interior who is a schedule C employee (as de-
17 fined by section 213.3301 of title 5, Code of Fed-
18 eral Regulations) and may not be delegated to
19 any other person. If a State has been delegated
20 authority pursuant to section 205, the State, act-
21 ing through the highest elected State official hav-
22 ing ultimate authority over the collection of roy-
23 alties from leases on Federal lands within the
24 state, may issue such subpoena, but may not del-
25 egate such authority to any other person.

1 “(ii) A subpoena described in clause (i)
2 may only be issued against a lessee during the
3 limitation period provided in this section and
4 only after the Secretary or a delegated State has
5 in writing requested the records from the lessee
6 related to the obligation which is the subject of
7 the subpoena and has determined that—

8 “(I) the lessee has failed to respond
9 within a reasonable period of time to the
10 Secretary’s or the applicable delegated
11 State’s written request for such records nec-
12 essary for an audit, investigation or other
13 inquiry made in accordance with the Sec-
14 retary’s or such delegated State’s respon-
15 sibilities under this Act; or

16 “(II) the lessee has in writing denied
17 the Secretary’s or the applicable delegated
18 State’s written request to produce such
19 records in the lessee’s possession or control
20 necessary for an audit, investigation or
21 other inquiry made in accordance with the
22 Secretary’s or such delegated State’s respon-
23 sibilities under this Act; or

24 “(III) the lessee has unreasonably de-
25 layed in producing records necessary for an

1 *audit, investigation or other inquiry made*
2 *in accordance with the Secretary's or the*
3 *applicable delegated State's responsibilities*
4 *under this Act after the Secretary's or such*
5 *delegated State's written request.*

6 “(C) *In seeking records, the Secretary or the*
7 *applicable delegated State shall afford the lessee*
8 *a reasonable period of time after a written re-*
9 *quest by the Secretary or such delegated State in*
10 *which to provide such records prior to the issu-*
11 *ance of any subpoena.*

12 “(3) *MISREPRESENTATION OR CONCEALMENT.—*
13 *The intentional misrepresentation or concealment of a*
14 *material fact for the purpose of evading the payment*
15 *of an obligation in which case the limitation period*
16 *shall be tolled for the period of such misrepresentation*
17 *or such concealment.*

18 “(4) *ORDER TO PERFORM A RESTRUCTURED AC-*
19 *COUNTING.—(A) The issuance of a notice under sub-*
20 *section (D) that the lessee has not adequately per-*
21 *formed a restructured accounting shall toll the limita-*
22 *tion period with respect to the obligation which is the*
23 *subject of the notice only for the period beginning on*
24 *the date the lessee receives the notice and ending 120*
25 *days after the date on which (i) the Secretary or the*

1 applicable delegated State receives written notice the
2 accounting or other requirement has been performed,
3 or (ii) a court has determined in a final decision that
4 the lessee is not required to perform the accounting,
5 whichever occurs first.

6 “(B)(i) The Secretary or the applicable del-
7 egated State may issue an order to perform a re-
8 structured accounting to a lessee when the Sec-
9 retary or such delegated State determines during
10 an in-depth audit of a lessee that the lessee
11 should recalculate royalty due on an obligation
12 based upon the Secretary’s or the delegated
13 State’s finding that the lessee has made identi-
14 fied underpayments or overpayments which are
15 demonstrated by the Secretary or the delegated
16 State to be based upon repeated, systemic report-
17 ing errors for a significant number of leases or
18 a single lease for a significant number of report-
19 ing months with the same type of error which
20 constitutes a pattern of violations and which are
21 likely to result in either significant underpay-
22 ments or overpayments.

23 “(ii) The power of the Secretary to issue an
24 order to perform a restructured accounting may
25 not be delegated below the most senior career

1 professional position having responsibility for
2 the royalty management program, which posi-
3 tion is currently designated as the ‘Associate Di-
4 rector for Royalty Management’, and may not be
5 delegated to any other person. If a State has been
6 delegated authority pursuant to section 205, the
7 State, acting through the highest ranking State
8 official having ultimate authority over the collec-
9 tion of royalties from leases on Federal lands
10 within the state, may issue such order to per-
11 form, which may not be delegated to any other
12 person. An order to perform a restructured ac-
13 counting shall—

14 “(I) be issued within a reasonable pe-
15 riod of time from when the audit identifies
16 the systemic, reporting errors;

17 “(II) specify the reasons and factual
18 bases for such order; and

19 “(III) be specifically identified as an
20 ‘order to perform a restructured account-
21 ing’.

22 “(C) An order to perform a restructured ac-
23 counting shall not mean or be construed to in-
24 clude any other communication or action by or
25 on behalf of the Secretary or a delegated State.

1 “(D) If a lessee fails to adequately perform
2 a restructured accounting pursuant to this sub-
3 section, a notice shall be issued to the lessee that
4 the restructured accounting has not been ade-
5 quately performed. A lessee shall be given a rea-
6 sonable time within which to perform the re-
7 structured accounting. Such notice may be issued
8 under this section only by an Assistant Secretary
9 of the Interior or an acting Assistant Secretary
10 of the Interior who is a schedule C employee (as
11 defined by section 213.3301 of title 5, Code of
12 Federal Regulations) and may not be delegated
13 to any other person. If a State has been delegated
14 authority pursuant to section 205, the State, act-
15 ing through the highest elected State official hav-
16 ing ultimate authority over the collection of roy-
17 alties from leases on Federal lands within the
18 state, may issue such notice, which may not be
19 delegated to any other person.

20 “(e) *TERMINATION OF LIMITATIONS PERIOD.*—An ac-
21 tion or an enforcement of an obligation by the Secretary
22 or delegated State or a lessee shall be barred under this sec-
23 tion prior to the running of the six-year period provided
24 in subsection (b) in the event—

1 “(1) the Secretary or a delegated State has noti-
2 fied the lessee in writing that a time period is closed
3 to further audit; or

4 “(2) the Secretary or a delegated State and a les-
5 see have so agreed in writing.

6 “(f) *RECORDS REQUIRED FOR DETERMINING COLLEC-*
7 *TIONS.—Records required pursuant to section 103 by the*
8 *Secretary or any delegated State for the purpose of deter-*
9 *mining obligations due and compliance with any applicable*
10 *mineral leasing law, lease provision, regulation or order*
11 *with respect to oil and gas leases from Federal lands or*
12 *the Outer Continental Shelf shall be maintained for the*
13 *same period of time during which a judicial proceeding or*
14 *demand may be commenced under subsection (b). If a judi-*
15 *cial proceeding or demand is timely commenced, the record*
16 *holder shall maintain such records until the final*
17 *nonappealable decision in such judicial proceeding is made,*
18 *or with respect to that demand is rendered, unless the Sec-*
19 *retary or the applicable delegated State authorizes in writ-*
20 *ing an earlier release of the requirement to maintain such*
21 *records. Notwithstanding anything herein to the contrary,*
22 *under no circumstance shall a record holder be required to*
23 *maintain or produce any record relating to an obligation*
24 *for any time period which is barred by the applicable limi-*
25 *tation in this section. Records required for administrative*

1 *actions and investigations (including, but not limited to,*
2 *accounting collection and audits) under this Act involving*
3 *obligations shall not be duplicated pursuant to section*
4 *3518(c)(1)(B) of title 44, United States Code.*

5 “(g) *TIMELY COLLECTIONS.*—*In order to most effec-*
6 *tively utilize resources available to the Secretary to maxi-*
7 *mize the collection of oil and gas receipts from lease obliga-*
8 *tions to the Treasury within the six-year period of limita-*
9 *tions, and consequently to maximize the State share of such*
10 *receipts, the Secretary shall not perform or require account-*
11 *ing, reporting, or audit activities if the Secretary and the*
12 *State concerned determines that the cost of conducting or*
13 *requiring the activity exceeds the expected amount to be col-*
14 *lected by the activity, based on the most current 12 months*
15 *of activity. To the maximum extent possible, the Secretary*
16 *and delegated States shall reduce costs to the United States*
17 *Treasury and the States by discontinuing requirements for*
18 *unnecessary or duplicative data and other information,*
19 *such as separate allowances and payor information, relat-*
20 *ing to obligations due. If the Secretary and the State con-*
21 *cerned determine that collection will result sooner, the Sec-*
22 *retary or the applicable delegated State may waive or forego*
23 *interest in whole or in part.*

24 “(h) *APPEALS AND FINAL AGENCY ACTION.*—

1 “(1) *30-MONTH PERIOD.*—All orders issued by
2 the Secretary or a delegated State are subject to ap-
3 peal to the Secretary. No State shall impose any con-
4 ditions which would hinder a lessee’s immediate ap-
5 peal of an order to the Secretary or the Secretary’s
6 designee. The Secretary shall issue a final decision in
7 any administrative proceeding, including any admin-
8 istrative proceedings pending on the date of enact-
9 ment of this section, within 30 months from the date
10 such proceeding was commenced or 30 months from
11 the date of such enactment, whichever is later. The 30-
12 month period may be extended by any period of time
13 agreed upon in writing by the Secretary and the les-
14 see.

15 “(2) *EFFECT OF FAILURE TO ISSUE DECISION.*—
16 If no such decision has been issued by the Secretary
17 within the 30-month period referred to in paragraph
18 (1)—

19 “(A) the Secretary shall be deemed to have
20 issued and granted a decision in favor of the les-
21 see or lessees as to any nonmonetary obligation
22 and any monetary obligation the principal
23 amount of which is less than \$2,500; and

24 “(B) the Secretary shall be deemed to have
25 issued a final decision in favor of the Secretary,

1 *which decision shall be deemed to affirm those is-*
2 *ssues for which the agency rendered a decision*
3 *prior to the end of such period, as to any mone-*
4 *tary obligation the principal amount of which is*
5 *\$2,500 or more, and the lessee shall have a right*
6 *to a de novo judicial review of such deemed final*
7 *decision.*

8 “(i) *COLLECTIONS OF DISPUTED AMOUNTS DUE.—To*
9 *expedite collections relating to disputed obligations due*
10 *within the six-year period beginning on the date the obliga-*
11 *tion became due, the parties shall hold not less than one*
12 *settlement consultation and the Secretary and the State*
13 *concerned may take such action as is appropriate to com-*
14 *promise and settle a disputed obligation, including waiving*
15 *or reducing interest and allowing offsetting of obligations*
16 *among leases.*

17 “(j) *ENFORCEMENT OF A CLAIM FOR JUDICIAL RE-*
18 *VIEW.—In the event a demand subject to this section is*
19 *properly and timely issued, the obligation which is the sub-*
20 *ject of the demand may be enforced beyond the six year lim-*
21 *itations period without being barred by this statute of limi-*
22 *tations. In the event a demand subject to this section is*
23 *properly and timely commenced, a judicial proceeding chal-*
24 *lenging the final agency action with respect to such demand*
25 *shall be deemed timely so long as such judicial proceeding*

1 *is commenced within 180 days from receipt of notice by*
2 *the lessee of the final agency action.*

3 “(k) *IMPLEMENTATION OF FINAL DECISION.—In the*
4 *event a judicial proceeding or demand subject to this section*
5 *is timely commenced and thereafter the limitation period*
6 *in this section lapses during the pendency of such proceed-*
7 *ing, any party to such proceeding shall not be barred from*
8 *taking such action as is required or necessary to implement*
9 *a final unappealable judicial or administrative decision,*
10 *including any action required or necessary to implement*
11 *such decision by the recovery or recoupment of an*
12 *underpayment or overpayment by means of refund or cred-*
13 *it.*

14 “(l) *STAY OF PAYMENT OBLIGATION PENDING RE-*
15 *VIEW.—Any party ordered by the Secretary or a delegated*
16 *State to pay any obligation (other than an assessment)*
17 *shall be entitled to a stay of such payment without bond*
18 *or other surety instrument pending an administrative or*
19 *judicial proceeding if the party periodically demonstrates*
20 *to the satisfaction of the Secretary that such party is finan-*
21 *cially solvent or otherwise able to pay the obligation. In*
22 *the event the party is not able to so demonstrate, the Sec-*
23 *retary may require a bond or other surety instrument satis-*
24 *factory to cover the obligation. Any party ordered by the*
25 *Secretary or a delegated State to pay an assessment shall*

1 *be entitled to a stay without bond or other surety instru-*
 2 *ment.”.*

3 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
 4 *section 1 of the Federal Oil and Gas Royalty Management*
 5 *Act of 1982 (30 U.S.C. 1701) is amended by inserting after*
 6 *the item relating to section 114 the following new item:*
 “*Sec. 115. Limitation periods and agency actions.*”.

7 ***SEC. 5364. ADJUSTMENT AND REFUNDS.***

8 (a) *IN GENERAL.*—*The Federal Oil and Gas Royalty*
 9 *Management Act of 1982 (30 U.S.C. 1701 et seq.) is amend-*
 10 *ed by inserting after section 111 the following:*

11 ***“SEC. 111A. ADJUSTMENTS AND REFUNDS.***

12 “(a) *ADJUSTMENTS TO ROYALTIES PAID TO THE SEC-*
 13 *RETARY OR A DELEGATED STATE.*—

14 “(1) *If, during the adjustment period, a lessee*
 15 *determines that an adjustment or refund request is*
 16 *necessary to correct an underpayment or overpayment*
 17 *of an obligation, the lessee shall make such adjustment*
 18 *or request a refund within a reasonable period of time*
 19 *and only during the adjustment period. The filing of*
 20 *a royalty report which reflects the underpayment or*
 21 *overpayment of an obligation shall constitute prior*
 22 *written notice to the Secretary or the applicable dele-*
 23 *gated State of an adjustment.*

24 “(2)(A) *For any adjustment, the lessee shall cal-*
 25 *culate and report the interest due attributable to such*

1 *adjustment at the same time the lessee adjusts the*
2 *principal amount of the subject obligation, except as*
3 *provided by subparagraph (B).*

4 *“(B) In the case of a lessee who determines that*
5 *subparagraph (A) would impose a hardship, the Sec-*
6 *retary or such delegated State shall calculate the in-*
7 *terest due and notify the lessee within a reasonable*
8 *time of the amount of interest due, unless such lessee*
9 *elects to calculate and report interest in accordance*
10 *with subparagraph (A).*

11 *“(3) An adjustment or a request for a refund for*
12 *an obligation may be made after the adjustment pe-*
13 *riod only upon written notice to and approval by the*
14 *Secretary or the applicable delegated State, as appro-*
15 *priate, during an audit of the period which includes*
16 *the production month for which the adjustment is*
17 *being made. If an overpayment is identified during*
18 *an audit, then the Secretary or the applicable dele-*
19 *gated State, as appropriate, shall allow a credit or re-*
20 *fund in the amount of the overpayment.*

21 *“(4) For purposes of this section, the adjustment*
22 *period for any obligation shall be the five-year period*
23 *following the date on which an obligation became due.*
24 *The adjustment period shall be suspended, tolled, ex-*

1 *tended, enlarged, or terminated by the same actions*
2 *as the limitation period in section 115.*

3 *“(b) REFUNDS.—*

4 *“(1) IN GENERAL.—A request for refund is suffi-*
5 *cient if it—*

6 *“(A) is made in writing to the Secretary*
7 *and, for purposes of section 115, is specifically*
8 *identified as a demand;*

9 *“(B) identifies the person entitled to such*
10 *refund;*

11 *“(C) provides the Secretary information*
12 *that reasonably enables the Secretary to identify*
13 *the overpayment for which such refund is sought;*
14 *and*

15 *“(D) provides the reasons why the payment*
16 *was an overpayment.*

17 *“(2) NOTICE.—The Secretary shall promptly no-*
18 *tify each State concerned of a request for refund.*

19 *“(3) PAYMENT BY SECRETARY OF THE TREAS-*
20 *URY.—The Secretary shall certify the amount of the*
21 *refund to be paid under paragraph (1) to the Sec-*
22 *retary of the Treasury who shall make such refund.*
23 *Such refund shall be paid from amounts received as*
24 *current receipts from sales, bonuses, royalties (includ-*
25 *ing interest charges collected under this section) and*

1 *rentals of the public lands and the Outer Continental*
2 *Shelf under the provisions of the Mineral Leasing Act*
3 *and the Outer Continental Shelf Lands Act, which are*
4 *not payable to a State or the Reclamation Fund. The*
5 *portion of any such refund attributable to any*
6 *amounts previously disbursed to a State, the Rec-*
7 *lamation Fund, or any recipient prescribed by law*
8 *shall be deducted from the next disbursements to that*
9 *recipient made under the applicable law. Such*
10 *amounts deducted from subsequent disbursements*
11 *shall be credited to miscellaneous receipts in the*
12 *Treasury.*

13 *“(4) PAYMENT PERIOD.—A refund under this*
14 *subsection shall be paid or denied (with an expla-*
15 *nation of the reasons for the denial) within 120 days*
16 *of the date on which the request for refund is received*
17 *by the Secretary. Such refund shall be subject to later*
18 *audit by the Secretary or the applicable delegated*
19 *State and subject to the provisions of this Act.*

20 *“(5) PROHIBITION AGAINST REDUCTION OF RE-*
21 *FUNDS OR CREDITS.—In no event shall the Secretary*
22 *or any delegated State directly or indirectly claim or*
23 *offset any amount or amounts against, or reduce any*
24 *refund or credit (or interest accrued thereon) by the*

1 *est charges collected under this section) and rentals of the*
2 *public lands and the Outer Continental Shelf under the pro-*
3 *visions of the Mineral Leasing Act, and the Outer Continen-*
4 *tal Shelf Lands Act, which are not payable to a State or*
5 *the Reclamation Fund. The portion of any such interest*
6 *payment attributable to any amounts previously disbursed*
7 *to a State, the Reclamation Fund, or any other recipient*
8 *designated by law shall be deducted from the next disburse-*
9 *ments to that recipient made under the applicable law.*
10 *Such amounts deducted from subsequent disbursements*
11 *shall be credited to miscellaneous receipts in the Treasury.”.*

12 (b) *LIMITATION ON INTEREST.*—Section 111 of the
13 *Federal Oil and Gas Royalty Management Act of 1982, as*
14 *amended by subsection (a), is further amended by adding*
15 *at the end the following:*

16 “(i) *Upon a determination by the Secretary that an*
17 *excessive overpayment (based upon all obligations of a lessee*
18 *for a given reporting month) was made for the sole purpose*
19 *of receiving interest, interest shall not be paid on the exces-*
20 *sive amount of such overpayment. For purposes of this Act,*
21 *an ‘excessive overpayment’ shall be the amount that any*
22 *overpayment a lessee pays for a given reporting month (ex-*
23 *cluding payments for demands for obligations determined*
24 *to be due as a result of judicial or administrative proceed-*
25 *ings or agreed to be paid pursuant to settlement agree-*

1 ments) for the aggregate of all of its Federal leases exceeds
2 10 percent of the total royalties paid that month for those
3 leases.”.

4 (c) *ESTIMATED PAYMENT*.—Section 111 of the Federal
5 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
6 1721), as amended by subsections (a) and (b), is further
7 amended by adding at the end the following:

8 “(j) A lessee may make a payment for the approximate
9 amount of royalties (hereinafter in this subsection ‘esti-
10 mated payment’) that would otherwise be due for such lease
11 to avoid underpayment or nonpayment interest charges.
12 When an estimated payment is made, actual royalties are
13 due and payable at the end of the month following the
14 month in which the estimated payment is made. If the lessee
15 makes a payment for such actual royalties, the lessee may
16 apply the estimated payment to future royalties. Any esti-
17 mated payment may be adjusted, recouped, or reinstated
18 at any time by the lessee.”.

19 (d) *VOLUME ALLOCATION OF OIL AND GAS PRODUC-*
20 *TION*.—Section 111 of the Federal Oil and Gas Royalty
21 Management Act of 1982 (30 U.S.C. 1721), as amended by
22 subsections (a) through (c), is amended by adding at the
23 end the following:

24 “(k)(1) Except as otherwise provided by this sub-
25 section—

1 “(A) a lessee of a lease in a unit or
2 communitization agreement which contains only Fed-
3 eral leases with the same royalty rate and funds dis-
4 tribution shall report and pay royalties on oil and
5 gas production for each production month based on
6 the actual volume of production sold by or on behalf
7 of that lessee;

8 “(B) a lessee of a lease in any other unit or
9 communitization agreement shall report and pay roy-
10 alties on oil and gas production for each production
11 month based on the volume of oil and gas produced
12 from such agreement and allocated to the lease in ac-
13 cordance with the terms of the agreement; and

14 “(C) a lessee of a lease that is not contained in
15 a unit or communitization agreement shall report
16 and pay royalties on oil and gas production for each
17 production month based on the actual volume of pro-
18 duction sold by or on behalf of that lessee.

19 “(2) This subsection applies only to requirements for
20 reporting and paying royalties. Nothing in this subsection
21 is intended to alter a lessee’s liability for royalties on oil
22 or gas production based on the share of production allocated
23 to the lease in accordance with the terms of the lease, a
24 unit or communitization agreement, or any other agree-
25 ment.

1 “(3) For any unit or communitization agreement, if
2 all lessees contractually agree to an alternative method of
3 royalty reporting and payment, the lessees may submit such
4 alternative method to the Secretary or the delegated State
5 for approval and make payments in accordance with such
6 approved alternative method so long as such alternative
7 method does not reduce the amount of the royalty obliga-
8 tion.

9 “(4) The Secretary or the delegated State shall grant
10 an exception from the reporting and payment requirements
11 for marginal properties by allowing for any calendar year
12 or portion thereof royalties to be paid each month based
13 on the volume of production sold. Interest shall not accrue
14 on the difference for the entire calendar year or portion
15 thereof between the amount of oil and gas actually sold and
16 the share of production allocated to the lease until the begin-
17 ning of the month following calendar year or portion there-
18 of. Any additional royalties due or overpaid royalties and
19 associated interest shall be paid, refunded, or credited with-
20 in six months after the end of each calendar year in which
21 royalties are paid based on volumes of production sold. For
22 the purpose of this subsection, the term ‘marginal property’
23 means a lease that produces on average the combined equiv-
24 alent of less than 15 barrels of oil per day or 90 thousand
25 cubic feet of gas per day, or a combination thereof, deter-

1 *mined by dividing the average daily production of crude*
2 *oil and natural gas from producing wells on such lease by*
3 *the number of such wells, unless the Secretary, together with*
4 *the State concerned, determines that a different production*
5 *is more appropriate.*

6 “(5) *Not later than two years after the date of the en-*
7 *actment of this subsection, the Secretary shall issue any ap-*
8 *propriate demand for all outstanding royalty payment dis-*
9 *putes regarding who is required to report and pay royalties*
10 *on production from units and communitization agreements*
11 *outstanding on the date of the enactment of this subsection,*
12 *and collect royalty amounts owed on such production.”.*

13 “(e) *PRODUCTION ALLOCATION.—Section 111 of the*
14 *Federal Oil and Gas Royalty Management Act of 1982 (30*
15 *U.S.C. 1721), as amended by subsections (a) through (d),*
16 *is amended by adding at the end the following:*

17 “(l) *The Secretary or the delegated State shall issue*
18 *all determinations of allocations of production for units and*
19 *communitization agreements within 120 days of a request*
20 *for determination. If the Secretary or the delegated State*
21 *fails to issue a determination within such 120-day period,*
22 *the Secretary shall waive interest due on obligations subject*
23 *to the determination until the end of the month following*
24 *the month in which the determination is made.”.*

1 (f) *NEW ASSESSMENT TO ENCOURAGE PROPER ROY-*
2 *ALTY PAYMENTS.*—

3 (1) *IN GENERAL.*—*The Federal Oil and Gas*
4 *Royalty Management Act of 1982 (30 U.S.C. 1721),*
5 *as amended by this section, is further amended by*
6 *adding at the end the following:*

7 ***“SEC. 116. ASSESSMENTS.***

8 *“Beginning eighteen months after the date of enact-*
9 *ment of this section, to encourage proper royalty payment*
10 *the Secretary or the delegated State shall impose assess-*
11 *ments on lessees who chronically submit erroneous reports*
12 *under this Act. Assessments under this Act may only be is-*
13 *sued as provided for in this section.”.*

14 (2) *CLERICAL AMENDMENT.*—*The table of con-*
15 *tents in section 1 of such Act (30 U.S.C. 1701) is*
16 *amended by adding after the item relating to section*
17 *115 the following new item:*

“Sec. 116. Assessments.”.

18 (g) *LIABILITY FOR ROYALTY PAYMENTS.*—*Section*
19 *102(a) of the Federal Oil and Gas Royalty Management*
20 *Act of 1982 (30 U.S.C. 1712(a)) is amended to read as fol-*
21 *lows:*

22 *“(a) In order to increase receipts and achieve effective*
23 *collections of royalty and other payments, a lessee who is*
24 *required to make any royalty or other payment under a*
25 *lease or under the mineral leasing laws, shall make such*

1 *payments in the time and manner as may be specified by*
2 *the Secretary or the applicable delegated State. A lessee may*
3 *designate a person to make all or part of the payments due*
4 *under a lease on the lessee's behalf and shall notify the Sec-*
5 *retary or the applicable delegated State in writing of such*
6 *designation, in which event said designated person may,*
7 *in its own name, pay, offset or credit monies, make adjust-*
8 *ments, request and receive refunds and submit reports with*
9 *respect to payments required by the lessee. The person own-*
10 *ing operating rights in a lease shall be primarily liable for*
11 *its pro rata share of payment obligations under the lease.*
12 *If the person owning the legal record title in a lease is other*
13 *than the operating rights owner, the person owning the legal*
14 *record title shall be secondarily liable for its pro rata share*
15 *of such payment obligations under the lease.”.*

16 *(h) CLERICAL AMENDMENT.—The heading of section*
17 *111 of the Federal Oil and Gas Royalty Management Act*
18 *of 1982 (30 U.S.C. 1721) is amended to read as follows:*

19 *“ROYALTY TERMS AND CONDITIONS, INTEREST, AND*
20 *PENALTIES”.*

21 **SEC. 5366. ALTERNATIVES FOR MARGINAL PROPERTIES.**

22 *(a) IN GENERAL.—The Federal Oil and Gas Royalty*
23 *Management Act of 1982 (30 U.S.C. 1701 et seq.), as*
24 *amended by section 5365 of this chapter, is further amended*
25 *by adding at the end the following:*

1 **“SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.**

2 “(a) *DETERMINATION OF BEST INTERESTS OF STATE*
3 *CONCERNED AND THE UNITED STATES.*—*The Secretary*
4 *and the State concerned, acting in the best interests of the*
5 *United States and the State concerned to promote produc-*
6 *tion, reduce administrative costs, and increase net receipts*
7 *to the United States and the States, shall jointly determine,*
8 *on a case by case basis, the amount of what marginal pro-*
9 *duction from a lease or leases or well or wells, or parts*
10 *thereof, shall be subject to a prepayment under subsection*
11 *(b) or regulatory relief under subsection (c). If the State*
12 *concerned does not consent, such prepayments or regulatory*
13 *relief shall not be made available under this section for such*
14 *marginal production, provided that if royalty payments*
15 *from a lease or leases, or well or wells is not shared with*
16 *any State, such determination shall be made solely by the*
17 *Secretary.*

18 “(b) *PREPAYMENT OF ROYALTY.*—

19 “(1) *I GENERAL.*—*Notwithstanding the provi-*
20 *sions of any lease to the contrary, for any lease or*
21 *leases or well or wells identified by the Secretary and*
22 *the State concerned pursuant to subsection (a), the*
23 *Secretary is authorized to accept a prepayment for*
24 *royalties in lieu of monthly royalty payments under*
25 *the lease for the remainder of the lease term if the af-*
26 *ected lessee so agrees. Any prepayment agreed to by*

1 *the Secretary, State concerned and lessee which is less*
2 *than an average \$500 per month in total royalties*
3 *shall be effectuated under this section not earlier than*
4 *two years after the date of enactment of this section*
5 *and, any prepayment which is greater than an aver-*
6 *age \$500 per month in total royalties shall be effec-*
7 *tuated under this section not earlier than three years*
8 *after the date of enactment of this section. The Sec-*
9 *retary and the State concerned may condition their*
10 *acceptance of the prepayment authorized under this*
11 *section on the lessee's agreeing to such terms and con-*
12 *ditions as the Secretary and the State concerned deem*
13 *appropriate and consistent with the purposes of this*
14 *Act. Such terms may—*

15 *“(A) provide for prepayment that does not*
16 *result in a loss of revenue to the United States*
17 *in present value terms;*

18 *“(B) include provisions for receiving addi-*
19 *tional prepayments or royalties for developments*
20 *in the lease or leases or well or wells that deviate*
21 *significantly from the assumptions and facts on*
22 *which the valuation is determined; and*

23 *“(C) require the lessee to provide such peri-*
24 *odic production reports as may be necessary to*
25 *allow the Secretary and the State concerned to*

1 *monitor production for the purposes of subpara-*
2 *graph (B).*

3 “(2) *STATE SHARE.*—*A prepayment under this*
4 *section shall be shared by the Secretary with any*
5 *State or other recipient to the same extent as any*
6 *royalty payment for such lease.*

7 “(3) *SATISFACTION OF OBLIGATION.*—*Except as*
8 *may be provided in the terms and conditions estab-*
9 *lished by the Secretary under subsection (b), a lessee*
10 *who makes a prepayment under this section shall*
11 *have satisfied in full its obligation to pay royalty on*
12 *the production stream sold from the lease or leases or*
13 *well or wells.*

14 “(c) *ALTERNATIVE ACCOUNTING AND AUDITING RE-*
15 *QUIREMENTS.*—

16 “(1) *IN GENERAL.*—*Within one year after the*
17 *date of the enactment of this section, the Secretary or*
18 *the delegated State shall provide accounting, report-*
19 *ing, and auditing relief that will encourage lessees to*
20 *continue to produce and develop properties subject to*
21 *subsection (a); provided, that such relief will only be*
22 *available to lessees in a State that concurs, which*
23 *concurrence is not required if royalty from the lease*
24 *or leases or well or wells is not shared with any State.*
25 *Prior to granting such relief, the Secretary and, if*

1 *appropriate, the State concerned shall agree that the*
2 *type of marginal wells and relief provided under this*
3 *paragraph is in the best interest of the United States*
4 *and, if appropriate, the State concerned.”.*

5 *(b) CLERICAL AMENDMENT.—The table of contents in*
6 *section 1 of such Act (30 U.S.C. 1701) is amended by add-*
7 *ing after the item relating to section 115 the following new*
8 *item:*

“Sec. 117. Alternatives for marginal properties.”.

9 **SEC. 5367. REPEALS.**

10 *(a) FOGRMA.—As applicable to Federal lands, sec-*
11 *tions 202 and 307 of the Federal Oil and Gas Royalty Man-*
12 *agement Act of 1982 (30 U.S.C. 1732 and 1755), are re-*
13 *pealed. Such repeal shall not affect cooperative agreements*
14 *involving Indian tribes or Indian lands. Section 1 of such*
15 *Act (relating to the table of contents) is amended by striking*
16 *out the items relating to sections 202 and 307.*

17 *(b) OCSLA.—Effective on the date of the enactment*
18 *of this Act, section 10 of the Outer Continental Shelf Lands*
19 *Act (43 U.S.C. 1339) is repealed.*

20 **SEC. 5368. INDIAN LANDS.**

21 *The amendments and repeals made by this chapter*
22 *shall not apply with respect to Indian lands, and the provi-*
23 *sions of the Federal Oil and Gas Royalty Management Act*
24 *of 1982 as in effect on the day before the date of enactment*

1 *of this Act shall continue to apply after such date with re-*
 2 *spect to Indian lands.*

3 **SEC. 5369. PRIVATE LANDS.**

4 *This chapter shall not apply to any privately owned*
 5 *minerals.*

6 **SEC. 5369A. EFFECTIVE DATE.**

7 *Except as provided by section 115(f), section 111(h),*
 8 *section 111(k)(5), and section 117 of the Federal Oil and*
 9 *Gas Royalty Management Act of 1982 (as added by this*
 10 *chapter), this chapter, and the amendments made by this*
 11 *chapter, shall apply with respect to the production of oil*
 12 *and gas after the first day of the month following the date*
 13 *of the enactment of this Act.*

14 **CHAPTER 5—MINING**

15 **SEC. 5371. SHORT TITLE.**

16 *This chapter may be cited as “The Mining Law Reve-*
 17 *nue Act of 1995”.*

18 **SEC. 5372. DEFINITIONS.**

19 *When used in this chapter—*

20 (1) *“Assessment year” means the annual period*
 21 *commencing at 12 o’clock noon on the 1st day of Sep-*
 22 *tember and ending at 12 o’clock noon on the 1st day*
 23 *of September of the following year.*

24 (2) *“Federal lands” means lands and interests in*
 25 *lands owned by the United States that are open to*

1 *mineral location, or that were open to mineral loca-*
2 *tion when a mining claim or site was located and*
3 *which have not been patented under the general min-*
4 *ing laws.*

5 (3) “General mining laws” means those Acts
6 *which generally comprise chapters 2, 11, 12, 12A, 15,*
7 *and 16, and sections 161 and 162, of Title 30 of the*
8 *United States Code, all Acts heretofore enacted which*
9 *are amendatory of or supplementary to any of the*
10 *foregoing Acts, and the judicial and administrative*
11 *decisions interpreting such Acts.*

12 (4) “Locatable minerals” means those minerals
13 *owned by the United States and subject to location*
14 *and disposition under the general mining laws on or*
15 *after the effective date of this chapter, but not includ-*
16 *ing any mineral held in trust by the United States*
17 *for any Indian or Indian tribe, as defined in section*
18 *2 of the Indian Mineral Development Act of 1982 (25*
19 *U.S.C. 2101), or any mineral owned by any Indian*
20 *or Indian tribe, as defined in that section, that is*
21 *subject to a restriction against alienation imposed by*
22 *the United States, or any mineral owned by any in-*
23 *corporated Native group, village corporation, or re-*
24 *gional corporation and acquired by the group or cor-*

1 *poration under the provisions of the Alaska Native*
2 *Claims Settlement Act (43 U.S.C. 1601 et seq.).*

3 (5) “*Mineral activities*” means any activity re-
4 *lated to, or incidental to, exploration for or develop-*
5 *ment, mining, production, beneficiation, or processing*
6 *of any locatable mineral or mineral that would be*
7 *locatable if it were subject to disposition under the*
8 *general mining laws, or reclamation of the impacts of*
9 *such activities.*

10 (6) “*Mining claim or site*”, except where pro-
11 *vided otherwise, means a lode mining claim, placer*
12 *mining claim, mill site or tunnel site.*

13 (7) “*Operator*” means any person conducting
14 *mineral activities subject to this chapter.*

15 (8) “*Person*” means an individual, Indian tribe,
16 *partnership, association, society, joint venture, joint*
17 *stock company, firm, company, limited liability com-*
18 *pany, corporation, cooperative or other organization,*
19 *and any instrumentality of State or local govern-*
20 *ment, including any publicly owned utility or pub-*
21 *licly owned corporation of State or local government.*

22 (9) “*Secretary*” means the *Secretary of the Inte-*
23 *rior.*

1 **SEC. 5373. RENTAL PAYMENT REQUIREMENTS.**

2 (a) *RENTAL PAYMENTS.*—(1) *After the date of enact-*
3 *ment of this Act, the owner of each unpatented mining*
4 *claim or site located pursuant to the general mining laws,*
5 *whether located before or after the enactment of this Act,*
6 *shall pay to the Secretary prior to September 1 of each year,*
7 *until a patent has been issued therefor, an annual rental*
8 *payment for each unpatented mining claim or site.*

9 (2) *LOCATION PAYMENT.*—*The owner of each*
10 *unpatented mining claim or site located after the date of*
11 *enactment of this Act pursuant to the general mining laws*
12 *shall pay to the Secretary, at the time the copy of the notice*
13 *or certificate of location is filed with the Bureau of Land*
14 *Management pursuant to section 314(b) of the Federal*
15 *Land Policy and Management Act of 1976 (43 U.S.C.*
16 *1744(b)), a \$25.00 location payment, in lieu of the annual*
17 *rental payment of \$100 per mining claim or site for the*
18 *assessment year which includes the date of location of such*
19 *mining claim or site.*

20 (3) *EXEMPTION AND WAIVER.*—(A) *The owner of any*
21 *mining claim or site who demonstrates to the Secretary on*
22 *or before the first day of any assessment year that access*
23 *to such mining claim or site was denied during the prior*
24 *assessment year by the action or inaction of any State or*
25 *Federal governmental officer, agency, or court, or by any*
26 *Indian tribal authority, shall be exempt from the annual*

1 rental payment requirements of paragraph (1) for the as-
 2 sessment year following the filing of the certification.

3 (B) The rental payment provided for in subsection
 4 5373(a) shall be waived for the owner of a mining claim
 5 or site who certifies in writing to the Secretary, on or before
 6 the date the payment is due, that, as of the date such pay-
 7 ment is due, such owner and all related persons own not
 8 more than ten unpatented mining claims or sites. Any
 9 owner of a mining claim or site that is not required to
 10 pay a rental payment under this subsection shall continue
 11 to be subject to the assessment work requirements of the gen-
 12 eral mining laws or of any other State or Federal law, sub-
 13 ject to any suspension or deferment of annual assessment
 14 work provided by law, for the assessment year following the
 15 filing of the certification required by this subsection.

16 (4) AMOUNT OF ANNUAL RENTAL PAYMENT.—For each
 17 assessment year the annual rental payment payable for a
 18 claim or site referred to in paragraph (1) shall be in the
 19 amount specified in Table 1.

20 **Table 1**

Assessment Year:	Amount of Payment Per Site or Claim:
1996–1998	\$100 per year
1999 and thereafter	\$200 per year

21 (5) EFFECT OF FORFEITURE.—No owner or co-owner
 22 of a mining claim or site which has been forfeited because
 23 the rental payment has not been paid and no person who

1 *is a related person of any such owner or co-owner may relo-*
2 *cate a new claim on any part of lands located within the*
3 *forfeited claim for a period of 12 months after the date of*
4 *forfeiture.*

5 **(b) ANNUAL LABOR.**—(1) *Beginning in 1999, amounts*
6 *expended on activities that qualify as annual labor under*
7 *the general mining laws may be credited on a dollar for*
8 *dollar basis towards up to 50 percent of the annual rental*
9 *payment payable under this section for the following assess-*
10 *ment year. During the assessment year in 1999, annual*
11 *labor performed in 1998 may be credited toward the annual*
12 *rental payment due in 1999.*

13 (2) *In order to receive credit under this subsection for*
14 *annual labor work, the description and value of the work*
15 *must be included in the statement required in subsection*
16 *(e) and the statement must be timely filed.*

17 (3) *Annual labor performed on an individual mining*
18 *claim or site within a group of contiguous claims may be*
19 *credited towards the aggregate amount of rental payments*
20 *due on all of the contiguous claims within that group.*

21 **(c) WORK QUALIFYING AS ANNUAL LABOR.**—(1) *Only*
22 *work which directly benefits or develops a mining claim or*
23 *facilitates the extraction of ore qualifies as annual labor*
24 *or other activities as determined by the Secretary. Accept-*

1 *able labor and improvements include, but are not limited*
2 *to, any of the following:*

3 (A) *Drilling or excavating, including ore extrac-*
4 *tion.*

5 (B) *Mining costs directly associated with the*
6 *production of ore.*

7 (C) *Prospecting work which benefits the claim or*
8 *a contiguous claim.*

9 (D) *Development work toward an actual mine,*
10 *such as shafts, tunnels, crosscuts and drifts, settling*
11 *ponds and dams.*

12 (E) *Activities covered under section 1 of the Act*
13 *of September 2, 1958 (30 U.S.C. 281), as amended.*

14 (F) *Reclamation conducted pursuant to State or*
15 *Federal surface management laws or regulations.*

16 (2) *The following activities do not qualify as annual*
17 *labor:*

18 (A) *Work involved in maintaining the location*
19 *such as brushing and marking boundaries or replac-*
20 *ing corner posts and location notices.*

21 (B) *Transportation of workers to or from the lo-*
22 *cation.*

23 (C) *Prospecting or exploration work not con-*
24 *ducted within the location or a contiguous location.*

1 (d) *AMENDMENTS OF PUBLIC LAW 85–876.—The Act*
2 *of September 2, 1958 (Public Law 85-876; 30 U.S.C. 281),*
3 *is amended as follows:*

4 (1) *Section 1 is amended by inserting “mineral*
5 *activities, environmental baseline monitoring, and”*
6 *after “without being limited to” and before “geologi-*
7 *cal, geochemical and geophysical surveys” and by*
8 *striking “Such” at the beginning of the last sentence*
9 *and inserting “Airborne”.*

10 (2) *Section 2(d) is amended by inserting “envi-*
11 *ronmental baseline monitoring or” after “experience*
12 *to conduct” and before “geological, geochemical or*
13 *geophysical surveys”.*

14 (3) *Section 2 is amended by adding the following*
15 *new subsection at the end thereof:*

16 “(e) *The term ‘environmental baseline monitoring’*
17 *means activities for collecting, reviewing and analyzing in-*
18 *formation concerning soil, vegetation, wildlife, mineral, air,*
19 *water, cultural, historical, archaeological or other resources*
20 *related to planning for or complying with Federal and*
21 *State environmental or permitting requirements applicable*
22 *to potential or proposed mineral activities on the*
23 *claim(s).”.*

24 (e) *RENTAL PAYMENT STATEMENT.—Each payment*
25 *under subsection (a) of this section shall be accompanied*

1 *by a statement which reasonably identifies the mining*
2 *claim or site for which the rental payment is being paid.*
3 *The statement required under this subsection shall be in lieu*
4 *of any annual filing requirements for mining claims or*
5 *sites, under any other Federal law, but shall not supersede*
6 *any such filing requirement under applicable State law.*

7 (f) *ANNUAL LABOR STATEMENT.*—*When the value of*
8 *annual labor is credited towards part or all of the rental*
9 *payment, subject to the 50-percent limit set forth in sub-*
10 *section (b)(1), the following shall apply:*

11 (1) *The rental payment statement required in*
12 *subsection (e) must also state the dates of performance*
13 *of the labor, describe the character and total value of*
14 *the improvements made or the labor performed, and*
15 *the amount of labor used as a credit toward the rental*
16 *payment for the current year.*

17 (2) *The annual labor statements must include a*
18 *summary of the quantity, value and location of work*
19 *done. This includes a listing of the physical work*
20 *done, to include drilling, trenching, sampling and un-*
21 *derground excavation, and the location of any envi-*
22 *ronmental, geologic, geochemical, and geophysical sur-*
23 *veys. The claim holder shall maintain sufficient*
24 *records which document the value of the work*
25 *claimed.*

1 (3) *All supporting material filed pursuant to*
2 *paragraph (2) shall remain confidential in accord-*
3 *ance with section 552 of title 5 of the United States*
4 *Code as long as the location is maintained and for*
5 *a period of one year after the location is abandoned,*
6 *after which all data filed shall be considered public*
7 *information.*

8 (4) *To the extent that labor credited against the*
9 *rental payment payable under this section is deter-*
10 *mined by a final action not to qualify as labor under*
11 *the general mining laws, the claimant shall pay the*
12 *insufficiency by making payment to the Secretary of*
13 *an amount equal to the amount of the rental payment*
14 *against which the insufficient labor was credited. If*
15 *such payment is made within 30 days of the claim-*
16 *ant's receipt of a notice of a final decision making*
17 *such determination, the claim concerned shall not be*
18 *forfeited or null or void, and the rental payment ap-*
19 *plicable to such claim shall be deemed timely paid.*

20 (g) *CREDIT AGAINST ROYALTY.—The annual claim*
21 *rental payment payable in advance of the assessment year*
22 *for any unpatented mining claim or site, or the aggregate*
23 *rental payments from a group of contiguous claims or sites,*
24 *shall be credited against the amount of royalty obligation*

1 *accruing for that year for such claims or sites under section*
2 *5375.*

3 *(h) FAILURE TO COMPLY.—The failure of the owner*
4 *to pay any claim rental payment for a mining claim or*
5 *site by the date such payment is due under this section shall*
6 *constitute forfeiture of the mining claim or site and such*
7 *mining claim or site shall be null and void, effective as of*
8 *the day after the date such payment is due: Provided, That*
9 *if such rental payment is paid on or before the 30th day*
10 *after such payment was due under this section, such mining*
11 *claim or site shall not be forfeited or null or void.*

12 *(i) AMENDMENT OF FLPMA FILING REQUIRE-*
13 *MENTS.—Section 314(a) of the Federal Land Policy and*
14 *Management Act of 1976 (43 U.S.C. 1744(a)) is hereby re-*
15 *pealed.*

16 *(j) RELATED PERSONS.—As used in this section, the*
17 *term “related persons” includes—*

18 *(1) the spouse and dependent children (as de-*
19 *finied in section 152 of the Internal Revenue Code of*
20 *1986) of the owner of the mining claim or site; and*

21 *(2) a person controlled by, controlling, or under*
22 *common control with the owner of the mining claim*
23 *or site.*

1 (k) *REPEAL.*—Sections 10101 through 10106 of the
2 *Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406;*
3 *30 U.S.C. 28g) are repealed.*

4 ***SEC. 5374. PATENTS.***

5 (a) *IN GENERAL.*—Except as provided in subsection
6 (c), any patent issued by the United States under the gen-
7 eral mining laws after the date of enactment of this chapter
8 shall be issued only—

9 (1) upon payment by the owner of the claim of
10 the fair market value for the interest in the land
11 owned by the United States exclusive of and without
12 regard to the mineral deposits in the land or the use
13 of the land for mineral activities; and

14 (2) subject to reservation by the United States of
15 the royalty provided in section 5375.

16 (b) *RIGHT OF RE-ENTRY.*—

17 (1) Except as provided in subsection 5374(c),
18 and notwithstanding any other provision of law, the
19 United States shall retain a right of re-entry in lands
20 patented under section 5374.

21 (2) Such right of re-entry of the United States
22 shall ripen if—

23 (A) the land is used by the patentee, or any
24 subsequent owners, for any purpose other than
25 conducting mineral activities in good faith;

1 (B) such use is not discontinued within a
2 time period specified by the Secretary (but not
3 earlier than 90 days after the Secretary provides
4 the owner of the land with written notice pursu-
5 ant to paragraph (2) to discontinue such use);
6 and

7 (C) the Secretary elects to assert the right of
8 re-entry in accordance with paragraph (3).

9 (3) The ripened right of re-entry retained by the
10 United States pursuant to subparagraph (2) shall
11 vest and all right, title and interest in such patented
12 estate shall revert to the United States only if—

13 (A) the Secretary files a declaration of re-
14 entry within 6 months of the requisite occur-
15 rences under paragraph (2) with the Office of the
16 Bureau of Land Management in the state where
17 the land subject to such right of re-entry is situ-
18 ated; and

19 (B) the Secretary records such declaration
20 in the office of the county recorder of the county
21 in which the lands subject to a reversion are sit-
22 uated within 30 days of filing under subpara-
23 graph (A).

24 (4) One year after the patent holder provides
25 written notice to the Secretary that all mineral ac-

1 *tivities are completed and applicable reclamation is*
2 *completed, the right of re-entry held by the United*
3 *States and created under the subsection (b) shall ex-*
4 *pire unless within such period the Secretary notifies*
5 *the patent holder in writing that he is exercising the*
6 *right of re-entry held by the United States. At such*
7 *time, ownership of the patented lands shall automati-*
8 *cally revert to the United States, notwithstanding*
9 *subparagraphs (A), (B) and (C) of subsection (b)(2).*
10 *The Secretary may decline to exercise the right of re-*
11 *entry and such rights shall continue if—*

12 *(a) solid waste or hazardous substances re-*
13 *leased on or from the patented estate may pose*
14 *a threat to public safety or the environment; or*

15 *(b) acceptance of title would expose the*
16 *United States to liability for past mineral ac-*
17 *tivities on the patented estate.*

18 *(c) PROTECTION OF VALID EXISTING RIGHTS.—Not-*
19 *withstanding any other provision of law, the requirements*
20 *of this chapter (except with respect to rental payments in*
21 *accordance with section 5373)—*

22 *(1) shall not apply to the mining claims and*
23 *sites contained within those mineral patent applica-*
24 *tions pending at the Department as of September 30,*
25 *1995, which shall be processed under the general min-*

1 *ing laws in effect immediately prior to the date of en-*
2 *actment of this chapter; and*

3 *(2) likewise shall not apply to the mining claims*
4 *or sites for which there is on the date of enactment*
5 *of this chapter a vested possessory property right*
6 *against the Government under the general mining*
7 *laws in effect immediately prior to the date of enact-*
8 *ment of this chapter.*

9 **SEC. 5375. ROYALTY.**

10 *(a) IN GENERAL.—The production and sale of*
11 *locatable minerals (including associated minerals) from*
12 *any unpatented mining claim (other than those from Fed-*
13 *eral lands to which subsection 5374(c) applies) or any min-*
14 *ing claim patented under subsection 5374(a) shall be subject*
15 *to a royalty of 5.0 percent on the net proceeds from such*
16 *production mined and sold from such claim.*

17 *(b) ROYALTY EXCLUSION.—*

18 *(1) The royalty payable under this section shall*
19 *be waived for any person with annual net proceeds*
20 *from mineral production subject to subsection (a) of*
21 *less than \$50,000.*

22 *(2) The obligation to pay royalties hereunder*
23 *shall accrue upon the sale of locatable minerals or*
24 *mineral products produced from a mining claim sub-*

1 *ject to such royalty, and not upon the stockpiling of*
2 *the same for future processing.*

3 (3) *Where mining operations subject to this sec-*
4 *tion are conducted in two or more places by the same*
5 *person, the operations shall be considered a single op-*
6 *eration the aggregate net proceeds from which shall be*
7 *subject to the \$50,000 limitation set forth in this sub-*
8 *section.*

9 (4) *No royalty shall be payable under this sec-*
10 *tion with respect to minerals processed at a facility*
11 *by the same person or entity which extracted the min-*
12 *erals if an urban development action grant has been*
13 *made under section 119 of the Housing and Commu-*
14 *nity Development Act of 1974 with respect to any*
15 *portion of such facility.*

16 (c) *DEFINITIONS.—For the purposes of this chapter:*

17 (1) *The term “net proceeds” shall mean gross*
18 *yield, less the sum of the following deductions for costs*
19 *incurred prior to sale or value determination, and*
20 *none other:*

21 (A) *The actual cost of extracting the*
22 *locatable mineral.*

23 (B) *The actual cost of transporting the*
24 *locatable mineral from the claim to the place or*

1 *places of reduction, beneficiation, refining, and*
2 *sale.*

3 (C) *The actual cost of reduction,*
4 *beneficiation, refining, and sale of the locatable*
5 *mineral.*

6 (D) *The actual cost of marketing and deliv-*
7 *ering the locatable mineral and the conversion of*
8 *the locatable mineral into money.*

9 (E) *The actual cost of maintenance and re-*
10 *pairs of—*

11 (i) *all machinery, equipment, appara-*
12 *tus, and facilities used in the mine;*

13 (ii) *all crushing, milling, leaching, re-*
14 *fining, smelting, and reduction works,*
15 *plants, and facilities; and*

16 (iii) *all facilities and equipment for*
17 *transportation.*

18 (F) *The actual cost for support personnel*
19 *and support services at the mine site, including*
20 *without limitation, accounting, assaying, draft-*
21 *ing and mapping, computer services, surveying,*
22 *housing, camp, and office expenses, safety, and*
23 *security.*

1 (G) *The actual cost of engineering, sam-*
2 *pling, and assaying pertaining to development*
3 *and production.*

4 (H) *The actual cost of permitting, reclama-*
5 *tion, environmental compliance and monitoring.*

6 (I) *The actual cost of fire and other insur-*
7 *ance on the machinery, equipment, apparatus,*
8 *works, plants, and facilities mentioned in sub-*
9 *paragraph (E).*

10 (J) *Depreciation of the original capitalized*
11 *cost of the machinery, equipment, apparatus,*
12 *works, plants, and facilities listed in subpara-*
13 *graph (E). The annual depreciation charge shall*
14 *consist of amortization of the original cost in the*
15 *manner consistent with the Internal Revenue*
16 *Code of 1986, as amended from time to time. The*
17 *probable life of the property represented by the*
18 *original cost must be considered in computing*
19 *the depreciation charge.*

20 (K) *All money expended for premiums for*
21 *industrial insurance, and the owner paid cost of*
22 *hospital and medical attention and accident ben-*
23 *efits and group insurance for all employees en-*
24 *gaged in the production or processing of*
25 *locatable minerals.*

1 (L) *All money paid as contributions or*
2 *payments under State unemployment compensa-*
3 *tion law, all money paid as contributions under*
4 *the Federal Social Security Act, and all money*
5 *paid to State government in real property taxes*
6 *and severance or other taxes measured or levied*
7 *on production, or Federal excise tax payments*
8 *and payments as fees or charges for use of the*
9 *Federal lands from which the locatable minerals*
10 *are produced.*

11 (M) *The actual cost of the developmental*
12 *work in or about the mine or upon a group of*
13 *mines when operated as a unit.*

14 (2) *The term “gross yield” shall having the fol-*
15 *lowing meaning:*

16 (A) *In the case of sales of gold and silver*
17 *ore, concentrates or bullion, or the sales of other*
18 *locatable minerals in the form of ore or con-*
19 *centrates, the term “gross yield” means the ac-*
20 *tual proceeds of sale of such ore, concentrates or*
21 *bullion.*

22 (B) *In the case of sales of beneficiated prod-*
23 *ucts from locatable minerals other than those*
24 *subject to subparagraph (A) (including cathode,*
25 *anode or copper rod or wire, or other products*

1 *fabricated from the locatable minerals), the term*
2 *“gross yield” means the gross income from min-*
3 *ing derived from the first commercially market-*
4 *able product determined in the same manner as*
5 *under section 613 of the Internal Revenue Code*
6 *of 1986.*

7 *(C) If ore, concentrates, beneficiated or fab-*
8 *ricated products, or locatable minerals are used*
9 *or consumed and are not sold in an arms length*
10 *transaction, the term “gross yield” means the*
11 *reasonable fair market value of the ore, con-*
12 *centrates, beneficiated or fabricated products at*
13 *the mine or wellhead determined from the first*
14 *applicable of the following:*

15 *(i) Published or other competitive sell-*
16 *ing prices of locatable minerals of like kind*
17 *and grade.*

18 *(ii) Any proceeds of sale.*

19 *(iii) Value received in exchange for*
20 *any thing or service.*

21 *(iv) The value of any locatable min-*
22 *erals in kind or used or consumed in a*
23 *manufacturing process or in providing a*
24 *service.*

1 *Without limiting the foregoing, the profits or*
2 *losses incurred in connection with forward sales,*
3 *futures or commodity options trading, metal*
4 *loans, or any other price hedging or speculative*
5 *activity or arrangement shall not be included in*
6 *gross yield.*

7 *(d) LIMITATIONS AND ALLOCATIONS OF NET PRO-*
8 *CEEDS, GROSS YIELD, AND ALLOWABLE DEDUCTIONS.—*

9 *(1) The deductions listed in subsection (c)(1) are*
10 *intended to allow a reasonable allowance for overhead.*
11 *Such deductions shall not include any expenditures*
12 *for salaries, or any portion of salaries, of any person*
13 *not actually engaged in—*

14 *(A) the working of the mine;*

15 *(B) the operating of the leach pads, ponds,*
16 *plants, mills, smelters, or reduction works;*

17 *(C) the operating of the facilities or equip-*
18 *ment for transportation; or*

19 *(D) superintending the management of any*
20 *of those operations described in subparagraphs*
21 *(A) through (C).*

22 *(2) Ores or solutions of locatable minerals subject*
23 *to the royalty requirements of this section may be ex-*
24 *tracted from mines comprised of mining claims and*
25 *lands other than mining claims and ore or solutions*

1 of locatable minerals subject to the royalty require-
2 ments of this section may be commingled with ores or
3 solutions from lands other than mining claims. In
4 any such case, for purposes of determining the
5 amount of royalties payable under this section—

6 (A) the operator shall first sample, weigh or
7 measure, and assay the same in accordance with
8 accepted industry standards; and

9 (B) gross yield, allowable costs and net pro-
10 ceeds for royalty purposes shall be allocated in
11 proportion to mineral products recovered from
12 the mining claims in accordance with accepted
13 industry standards.

14 (e) *LIABILITY FOR ROYALTY PAYMENTS.*—The owner
15 or co-owners of a mining claim subject to a royalty under
16 this section shall be liable for such royalty to the extent of
17 the interest in such claim owned. As used in this subsection,
18 the terms “owner” and “co-owner” mean the person or per-
19 sons owning the right to mine locatable minerals from such
20 claim and receiving the net proceeds of such sale. No person
21 who makes any royalty payment attributable to the interest
22 of the owner or co-owners liable therefor shall become liable
23 to the United States for such royalty as a result of making
24 such payment on behalf of such owner or co-owners.

25 (f) *TIME AND MANNER OF PAYMENT.*—

1 (1) *Royalty payments for production from any*
2 *mining claim subject to the royalty payable under*
3 *this section shall be due to the United States at the*
4 *end of the month following the end of the calendar*
5 *quarter in which the net proceeds from the sale of*
6 *such production are received by the owner or co-own-*
7 *ers. Royalty payments may be made based upon good*
8 *faith estimates of the gross yield, net proceeds and the*
9 *quantity of ore, concentrates, or other beneficiated or*
10 *fabricated products of locatable minerals, subject to*
11 *adjustment when the actual annual gross yield, net*
12 *proceeds and quantity are determined by the owner of*
13 *the mining claim or site or co-owners.*

14 (2) *Each royalty payment or adjustment shall be*
15 *accompanied by a statement containing each of the*
16 *following:*

17 (A) *The name and Bureau of Land Man-*
18 *agement serial number of the mining claim or*
19 *claims from which ores, concentrates, solutions*
20 *or beneficiated products of locatable minerals*
21 *subject to the royalty required in this section*
22 *were produced and sold for the period covered by*
23 *such payment or adjustment.*

24 (B) *The estimated (or actual, if determined)*
25 *quantity of such ore, concentrates, solutions or*

1 *beneficiated or fabricated products produced and*
2 *sold from such mining claim or claims for such*
3 *period.*

4 *(C) The estimated (or actual, if determined)*
5 *gross yield from the production and sale of such*
6 *ore, concentrates, solutions or beneficiated prod-*
7 *ucts for such period.*

8 *(D) The estimated (or actual, if determined)*
9 *net proceeds from the production and sale of such*
10 *ores, concentrates, solutions or beneficiated prod-*
11 *ucts for such period, including an itemization of*
12 *the applicable deductions described in subsection*
13 *(c)(1).*

14 *(E) The estimated (or actual, if determined)*
15 *royalty due to the United States, or adjustment*
16 *due to the United States or such owner or co-*
17 *owners, for such period.*

18 *(3) In lieu of receiving a refund under subsection*
19 *(h), the owner or co-owners may elect to apply any*
20 *adjustment due to such owner or co-owners as an off-*
21 *set against royalties due from such owner or co-own-*
22 *ers to the United States under this Act, regardless of*
23 *whether such royalties are due for production and*
24 *sale from the same mining claim or claims.*

1 (g) *RECORDKEEPING AND REPORTING REQUIRE-*
2 *MENTS.—*

3 (1) *An owner, operator, or other person directly*
4 *involved in the conduct of mineral activities, trans-*
5 *portation, purchase, or sale of locatable minerals, con-*
6 *centrates, or products derived therefrom, subject to the*
7 *royalty under this section, through the point of roy-*
8 *alty computation, shall establish and maintain any*
9 *records, make any reports, and provide any informa-*
10 *tion that the Secretary may reasonably require for the*
11 *purposes of implementing this section or determining*
12 *compliance with regulations or orders under this sec-*
13 *tion. Upon the request of the Secretary when conduct-*
14 *ing an audit or investigation pursuant to subsection*
15 *(i), the appropriate records, reports, or information*
16 *required by this subsection shall be made available for*
17 *inspection and duplication by the Secretary.*

18 (2) *Records required by the Secretary under this*
19 *section shall be maintained for 3 years after the*
20 *records are generated unless the Secretary notifies the*
21 *record holder that he or she has initiated an audit or*
22 *investigation specifically identifying and involving*
23 *such records and that such records must be main-*
24 *tained for a longer period. When an audit or inves-*
25 *tigation is under way, such records shall be main-*

1 *tained until the earlier of the date that the Secretary*
2 *releases the record holder of the obligation to main-*
3 *tain such records or the date that the limitations pe-*
4 *riod applicable to such audit or investigation under*
5 *subsection (i) expires.*

6 *(h) INTEREST ASSESSMENTS.—*

7 *(1) If royalty payments under this section are*
8 *not received by the Secretary on the date that such*
9 *payments are due, or if such payments are less than*
10 *the amount due, the Secretary shall charge interest on*
11 *such unpaid amount. Interest under this subsection*
12 *shall be computed at the rate published by the De-*
13 *partment of the Treasury as the “Treasury Current*
14 *Value of Funds Rate.” In the case of an*
15 *underpayment or partial payment, interest shall be*
16 *computed and charged only on the amount of the defi-*
17 *ciency and not on the total amount, and only for the*
18 *number of days such payment is late. No other late*
19 *payment or underpayment charge or penalty shall be*
20 *charged with respect to royalties under this section.*

21 *(2) In any case in which royalty payments are*
22 *made in excess of the amount due, or amounts are*
23 *held by the Secretary pending the outcome of any ap-*
24 *peal in which the Secretary does not prevail, the Sec-*
25 *retary shall promptly refund such overpayments or*

1 *pay such amounts to the person or persons entitled*
2 *thereto, together with interest thereon for the number*
3 *of days such overpayment or amounts were held by*
4 *the Secretary, with the addition of interest charged*
5 *against the United States computed at the rate pub-*
6 *lished by the Department of the Treasury as the*
7 *“Treasury Current Value of Funds Rate.”*

8 *(i) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—*

9 *(1) The Secretary may conduct, after notice, any*
10 *audit reasonably necessary and appropriate to verify*
11 *the payments required under this section.*

12 *(2) The Secretary shall send or issue any billing*
13 *or demand letter for royalty due on locatable minerals*
14 *produced and sold from any mining claim subject to*
15 *royalty required by this section not later than 3 years*
16 *after the date such royalty was due and must specifi-*
17 *cally identify the production involved, the royalty al-*
18 *legedly due and the basis for the claim. No action,*
19 *proceeding or claim for royalty due on locatable min-*
20 *erals produced and sold, or relating to such produc-*
21 *tion, may be brought by the United States, including*
22 *but not limited to any claim for additional royalties*
23 *or claim of the right to offset the amount of such ad-*
24 *ditional royalties against amounts owed to any per-*
25 *son by the United States, unless judicial suit or ad-*

1 *ministrative proceedings are commenced to recover*
2 *specific amounts claimed to be due prior to the expi-*
3 *ration of 3 years from the date such royalty is alleged*
4 *to have been due.*

5 *(j) TRANSITIONAL RULES.—Any mining claim for*
6 *which a patent is issued pursuant to section 5374(c) shall*
7 *not be subject to the obligation to pay the royalty pursuant*
8 *to this section. Royalty payments for any claim processed*
9 *under section 5374(c) shall be suspended pending final de-*
10 *termination of the right to patent. For any such claim that*
11 *is determined not to qualify for the issuance of a patent*
12 *under section 5374(c), royalties shall be payable under this*
13 *section on production after the date of enactment of this*
14 *Act, plus interest computed at the rate published by the De-*
15 *partment of the Treasury as the “Treasury Current Value*
16 *of Funds Rate” on production after such date of enactment*
17 *and before the date of such determination.*

18 *(k) PENALTIES.—Any person who withholds payment*
19 *or royalties under this section after a final, nonappealable*
20 *determination of liability may be liable for civil penalties*
21 *of up to \$ 5,000 per day that payment is withheld after*
22 *becoming due.*

23 *(l) DISBURSEMENT OF REVENUES.—The receipts from*
24 *royalties collected under this section shall be disbursed as*
25 *follows:*

1 (1) *Fifty percent of such receipts shall be paid*
2 *into the Treasury of the United States and deposited*
3 *as miscellaneous receipts.*

4 (2) *Forty percent of such receipts shall be paid*
5 *into a State Fund or Federal Fund in accordance*
6 *with section 5376; until termination as provided in*
7 *section 5379.*

8 (3) *Ten percent of such receipts shall be paid by*
9 *the Secretary of the Treasury to the State in which*
10 *the mining claim from which production occurred is*
11 *located.*

12 **SEC. 5376. ABANDONED LOCATABLE MINERALS MINE REC-**
13 **LAMATION FUND.**

14 (a) *STATE FUND.*—*Any State within which royalties*
15 *are collected pursuant to section 5375 from a mining claim*
16 *and which wishes to become eligible to receive such proceeds*
17 *allocated by paragraph 5375(l)(2) shall establish and main-*
18 *tain an interest-bearing abandoned locatable mineral mine*
19 *reclamation fund (hereinafter referred to in this chapter as*
20 *“State Fund”) to accomplish the purposes of this chapter.*
21 *States with existing abandoned locatable mineral reclama-*
22 *tion programs shall qualify to receive proceeds allocated by*
23 *section 5375(l)(2).*

24 (b) *FEDERAL FUND.*—*There is established on the books*
25 *of the Treasury of the United States an interest-bearing*

1 *fund to be known as the Abandoned Locatable Minerals*
2 *Mine Reclamation Fund (hereinafter referred to in this*
3 *chapter as “Federal Fund”)* which shall consist of royalty
4 *proceeds allocated by paragraph 5375(l)(2) from mining*
5 *claims in a State where a State Fund has not been estab-*
6 *lished or maintained under subsection (a).*

7 **SEC. 5377. ALLOCATION AND PAYMENTS.**

8 *(a) STATE FUND.—Royalties collected pursuant to sec-*
9 *tion 5375 and allocated by section 5375(l)(2) shall be paid*
10 *by the Secretary of the Treasury to the State Fund estab-*
11 *lished pursuant to subsection 5376(a) for the State where*
12 *the mining claim from which the production occurred is*
13 *located. Payments to States under this subsection with re-*
14 *spect to any royalties received by the United States, shall*
15 *be made not later than the last business day of the month*
16 *in which such royalties are warranted by the United States*
17 *Treasury to the Secretary of the Interior as having been*
18 *received, except for any portion of such royalties which is*
19 *under challenge, which shall be placed in a suspense account*
20 *pending resolution of such challenge. Such warrants shall*
21 *be issued by the United States Treasury not later than 10*
22 *days after receipt of such royalties by the Treasury. Royal-*
23 *ties placed in a suspense account which are determined to*
24 *be due the United States shall be payable to a State Fund*
25 *not later than fifteen days after such challenge is resolved.*

1 *Any such amount placed in a suspense account pending res-*
2 *olution shall bear interest until the challenge is resolved.*
3 *In determining the amount of payments to State Funds*
4 *under this section, the amount of such payments shall not*
5 *be reduced by any administrative or other costs incurred*
6 *by the United States.*

7 **(b) FEDERAL FUND.**—*Royalties collected pursuant to*
8 *section 5375, and allocated by paragraph 5375(l)(2), from*
9 *mining claims located in a State which has not established*
10 *or maintained a State Fund, and such royalties from min-*
11 *ing claims located in a State for which the Secretary's au-*
12 *thority has expired under subsection 5379(a), shall be cred-*
13 *ited to the Federal Fund and distributed in accordance with*
14 *subsection (c).*

15 **(c) TRANSITION.**—*Prior to the time a State establishes*
16 *a State Fund pursuant to subsection 5376(a), any royalties*
17 *collected from a mining claim within such State shall be*
18 *deposited into the Federal Fund and allocated to such State.*
19 *Once a State establishes a State Fund under subsection*
20 *5376(a), the State allocation in the Federal Fund with ac-*
21 *crued interest shall be paid by the Secretary of the Treasury*
22 *to the State Fund in accordance with subsection (a). Com-*
23 *mencing three years after the date of enactment of this chap-*
24 *ter, the Secretary of the Treasury shall distribute royalty*
25 *proceeds then accrued or which are thereafter credited to*

1 *the Federal Fund equally among all States which maintain*
2 *a State Fund established under subsection 5376(a), and for*
3 *which the Secretary of the Treasury's authority has not ex-*
4 *pired under subsection 5379(a).*

5 **SEC. 5378. ELIGIBLE AREA.**

6 (a) *IN GENERAL.*—*Subject to subsection (b), lands and*
7 *water eligible for reclamation under this chapter shall be*
8 *Federal lands that—*

9 (1) *have been adversely affected by past mineral*
10 *activities on lands abandoned and left inadequately*
11 *reclaimed prior to the date of enactment of this chap-*
12 *ter; and*

13 (2) *for which the State determines there is no*
14 *identifiable party with a continuing reclamation re-*
15 *sponsibility under State or Federal laws.*

16 (b) *SPECIFIC SITES AND AREAS NOT ELIGIBLE.*—*The*
17 *following areas shall not be eligible for expenditures from*
18 *a State Fund:*

19 (1) *any area subject to a plan of operations sub-*
20 *mitted or approved prior to, on or after the date of*
21 *enactment of this chapter which includes remining or*
22 *reclamation of the area adversely affected by past*
23 *locatable mineral activities;*

24 (2) *any area affected by coal mining eligible for*
25 *reclamation expenditures pursuant to section 404 of*

1 *the Surface Mining Control and Reclamation Act (30*
2 *U.S.C. 1234);*

3 *(3) any area designated for remedial action pur-*
4 *suant to the Uranium Mill Tailings Radiation Con-*
5 *trol Act of 1978 (42 U.S.C. 7912); and*

6 *(4) any area that was listed on the National Pri-*
7 *orities List pursuant to the Comprehensive Environ-*
8 *mental Response, Compensation and Liability Act of*
9 *1980 (42 U.S.C. 9605) prior to the date of enactment*
10 *of this chapter, or where the Environmental Protec-*
11 *tion Agency has initiated or caused to be initiated a*
12 *response action pursuant to that Act.*

13 **SEC. 5379. SUNSET PROVISIONS.**

14 *(a) TERMINATION OF AUTHORITY.—The Secretary of*
15 *the Treasury's authority to allocate funds to a State Fund*
16 *under section 5377 shall expire on the date that the State*
17 *submits a report to the Congress which states that there are*
18 *no areas in the State eligible under subsection 5378(a)*
19 *which remain to be reclaimed.*

20 *(b) TERMINATION OF FUND.—Upon the termination of*
21 *authority as provided in subsection (a) with respect to all*
22 *State Funds, the Federal Fund shall also be terminated,*
23 *and all royalty proceeds thereafter remaining in the Federal*
24 *Fund shall be distributed to the States as provided for in*
25 *Section 5375(l)(3).*

1 **SEC. 5380. EFFECT ON THE GENERAL MINING LAWS.**

2 *The provisions of this chapter shall supersede the gen-*
3 *eral mining laws only to the extent such laws conflict with*
4 *the requirements of this chapter. Where no such conflict ex-*
5 *ists, the general mining laws, including all judicial and*
6 *administrative decisions interpreting them, shall remain in*
7 *full force and effect.*

8 **SEC. 5381. SEVERABILITY.**

9 *If any provision of this chapter or the applicability*
10 *thereof to any person or circumstances is held invalid, the*
11 *remainder of this chapter and the application of such provi-*
12 *sion to other persons or circumstances shall not be affected*
13 *thereby.*

14 **SEC. 5382. MINERAL MATERIALS.**

15 (a) *DETERMINATIONS.*—*Section 3 of the Act of July*
16 *23, 1955 (30 U.S.C. 611), is amended as follows:*

17 (1) *Insert “(a)” before the first sentence.*

18 (2) *Add the following new subsection at the end*
19 *thereof:*

20 (b)(1) *Subject to valid existing rights, after the date*
21 *of enactment of this subsection, notwithstanding the ref-*
22 *erence to common varieties in subsection (a) and to the ex-*
23 *ception to such term relating to a deposit of materials with*
24 *some property giving it distinct and special value, all de-*
25 *posits of mineral materials referred to in such subsection,*
26 *including the block pumice referred to in such subsection,*

1 *shall be subject to disposal only under the terms and condi-*
2 *tions of the Materials Act of 1947.*

3 (2) *For purposes of paragraph (1), the term “valid ex-*
4 *isting rights” means that a mining claim located for any*
5 *such mineral material had some property giving it the dis-*
6 *tinct and special value referred to in subsection (a), or as*
7 *the case may be, met the definition of block pumice referred*
8 *to in such subsection, was properly located and maintained*
9 *under the general mining laws prior to the date of the en-*
10 *actment of this subsection, and was supported by a discov-*
11 *ery of a valuable mineral deposit within the meaning of*
12 *the general mining laws as in effect immediately prior to*
13 *such date of enactment and that such claim continues to*
14 *be valid under this Act.”.*

15 (b) *IDENTIFIED DEPOSITS.—The Act entitled “An Act*
16 *to provide for the disposal of materials on the public lands*
17 *of the United States”, approved July 31, 1947 (30 U.S.C.*
18 *602), is amended by adding at the end the following:*

19 “(b) *IDENTIFIED DEPOSITS.—*

20 “(1) *Lands known to contain valuable deposits of*
21 *mineral materials subject to this Act and subsequent*
22 *amendments and not covered by any contract, permit,*
23 *or lease, for uncommon varieties of mineral materials*
24 *under this section or by a valid mining claim for an*
25 *uncommon variety of a mineral material under the*

1 *general mining laws shall be subject to disposition by*
2 *lease under this Act by the Secretary through adver-*
3 *tisement, competitive bidding, or such other methods*
4 *as he may by general regulations adopt, and in such*
5 *reasonably compact areas as he shall fix.*

6 “(2) *All leases will be conditioned upon—*

7 “(A) *the payment by the lessee of such roy-*
8 *alty as may be fixed in the lease, not less than*
9 *two percent of the quantity or gross value of the*
10 *output of mineral materials, and*

11 “(B) *the payment in advance of a rental of*
12 *25 cents per acre for the first calendar year or*
13 *fraction thereof; 50 cents per acre for the second,*
14 *third, fourth, and fifth years, respectively; and*
15 *\$1 per acre per annum thereafter during the*
16 *continuance of the lease, such rental for that*
17 *year being credited against royalties accruing for*
18 *that year.*

19 “(3)(A) *Any lease issued under this subsection*
20 *shall be for a term of 20 years and so long thereafter*
21 *as the lessee complies with the terms and conditions*
22 *of the lease and upon the further condition that at the*
23 *end of each 20-year period succeeding the date of the*
24 *lease such reasonable adjustment of the terms and*
25 *conditions thereof may be made therein as may be*

1 *prescribed by the Secretary unless otherwise provided*
2 *by law at the expiration of such periods.*

3 *“(B) Leases shall be conditioned upon a mini-*
4 *imum annual production or the payment of a mini-*
5 *imum royalty in lieu thereof, except when production*
6 *is interrupted by strikes, the elements, or casualties*
7 *not attributable to the lessee.*

8 *“(C) The Secretary may permit suspension of*
9 *operations under any such leases when marketing*
10 *conditions are such that the leases cannot be operated*
11 *except at a loss.*

12 *“(D) The Secretary upon application by the les-*
13 *see prior to the expiration of any existing lease in*
14 *good standing shall amend such lease to provide for*
15 *the same tenure and to contain the same conditions,*
16 *including adjustment at the end of each 20-year pe-*
17 *riod succeeding the date of said lease, as provided for*
18 *in this subsection.*

19 *“(c) OTHER LANDS.—*

20 *“(1) The Secretary is hereby authorized, under*
21 *such rules and regulations as he may prescribe, to*
22 *grant to any qualified applicant a prospecting permit*
23 *which shall give the exclusive right to prospect for*
24 *mineral materials in lands belonging to the United*
25 *States which are not subject to subsection (b), and are*

1 *not covered by a contract, permit, or lease under this*
2 *Act, except that a prospecting permit shall not exceed*
3 *a period of 2 years and the area to be included in*
4 *such a permit shall not exceed 2,560 acres of land in*
5 *reasonably compact form.*

6 *“(2) The Secretary shall reserve and may exer-*
7 *cise the authority to cancel any prospecting permit*
8 *upon failure by the permittee to exercise due diligence*
9 *in the prosecution of the prospecting work in accord-*
10 *ance with the terms and conditions stated in the per-*
11 *mit, and shall insert in every such permit issued*
12 *under the provisions of this Act appropriate provi-*
13 *sions for its cancellation by him.*

14 *“(3)(A) Upon showing to the satisfaction of the*
15 *Secretary that valuable deposits of one of the mineral*
16 *materials subject to the Materials Act of 1947 have*
17 *been discovered by the permittee within the area cov-*
18 *ered by his permit, and that such land is valuable*
19 *therefor, the permittee shall be entitled to a lease for*
20 *any or all of the land embraced in the prospecting*
21 *permit, at a royalty of not less than two percent of*
22 *the quantity or gross value of the output of the min-*
23 *eral materials at the point of shipment to market,*
24 *such lease to be taken in compact form by legal sub-*
25 *divisions of the public land surveys, or if the land be*

1 *not surveyed, by survey executed at the cost of the per-*
2 *mittee in accordance with regulations prescribed by*
3 *the Secretary.”.*

4 *“(B) “Persons holding valid mining claims for*
5 *uncommon varieties of mineral materials shall be en-*
6 *titled to receive a lease under this subsection.”*

7 *(D) MINERAL MATERIALS DISPOSAL CLARIFICA-*
8 *TION.—Section 4 July 23, 1955 (30 U.S.C. 612), is amend-*
9 *ed as follows:*

10 *(1) In subsection (b) insert “and mineral mate-*
11 *rial” after “vegetative”.*

12 *(2) In subsection (c) insert “and mineral mate-*
13 *rial” after “vegetative”.*

14 *(e) AUTHORIZATION FOR DISPOSAL OF MINERAL MA-*
15 *TERIALS BY CONTRACT.—Section 2(a) of the Act entitled*
16 *“An Act to provide for the disposal of materials on the pub-*
17 *lic lands of the United States”, approved July 31, 1947 (30*
18 *U.S.C. 602(a)), is amended—*

19 *(1) by striking the period at the end of para-*
20 *graph (3) and inserting “or, if”; and*

21 *(2) by adding after paragraph (3) the following:*

22 *“(4) the material is a mineral material.”.*

1 **CHAPTER 6—DEPARTMENT OF THE**
2 **INTERIOR**

3 **SEC. 5391. AIRCRAFT SERVICES.**

4 (a) *USE OF PRIVATE CONTRACTORS.*—By not later
5 than October 1, 1996, the Secretary of the Interior shall
6 contract with private entities for the provision of all air-
7 craft services required by the Department of the Interior,
8 other than those available from existing DOI aircraft whose
9 primary purpose is fire suppression.

10 (b) *SALE OF FEDERAL AIRCRAFT.*—By September 30,
11 1998, the Secretary of the Interior is authorized and di-
12 rected to sell all aircraft owned by the Department of the
13 Interior and all associated equipment and facilities, other
14 than those whose primary purpose is fire suppression.

15 (c) *EXEMPTIONS.*—The disposition of assets under this
16 section is not subject to section 202 and 203 of the Federal
17 Property and Administrative Services Act of 1949 (40
18 U.S.C. 483 and 484) or section 13 of the Surplus Property
19 Act of 1944 (50 U.S.C. App. 1622).

20 (d) *DISPOSITION OF PROCEEDS.*—The proceeds from
21 dispositions under this section shall be returned to the
22 Treasury as miscellaneous receipts and all savings from re-
23 duced overhead and other costs related to the management
24 of the assets sold shall be returned to the Treasury.

1 **CHAPTER 7—POWER MARKETING**
2 **ADMINISTRATIONS**

3 **Subchapter A—Bonneville Power**

4 **Administration Refinancing**

5 **SEC. 5401. DEFINITIONS.**

6 *For the purposes of this subchapter—*

7 (1) “Administrator” means the Administrator of
8 *the Bonneville Power Administration;*

9 (2) “capital investment” means a capitalized
10 *cost funded by Federal appropriations that—*

11 (A) *is for a project, facility, or separable*
12 *unit or feature of a project or facility;*

13 (B) *is a cost for which the Administrator is*
14 *required by law to establish rates to repay to the*
15 *United States Treasury through the sale of elec-*
16 *tric power, transmission, or other services;*

17 (C) *excludes a Federal irrigation invest-*
18 *ment; and*

19 (D) *excludes an investment financed by the*
20 *current revenues of the Administrator or by*
21 *bonds issued and sold, or authorized to be issued*
22 *and sold, by the Administrator under section 13*
23 *of the Federal Columbia River Transmission*
24 *System Act (16 U.S.C. 838k);*

1 (3) “new capital investment” means a capital
2 investment for a project, facility, or separable unit or
3 feature of a project, facility, or separable unit or fea-
4 ture of a project or facility, placed in service after
5 September 30, 1995;

6 (4) “old capital investment” means a capital in-
7 vestment the capitalized cost of which—

8 (A) was incurred, but not repaid, before Oc-
9 tober 1, 1995, and

10 (B) was for a project, facility, or separable
11 unit or feature of a project or facility, placed in
12 service before October 1, 1995;

13 (5) “repayment date” means the end of the pe-
14 riod within which the Administrator’s rates are to as-
15 sure the repayment of the principal amount of a cap-
16 ital investment; and

17 (6) “Treasury rate” means—

18 (A) for an old capital investment, a rate de-
19 termined by the Secretary of the Treasury, tak-
20 ing into consideration prevailing market yields,
21 during the month preceding October 1, 1995, on
22 outstanding interest-bearing obligations of the
23 United States with periods to maturity com-
24 parable to the period between October 1, 1995,

1 *and the repayment date for the old capital in-*
2 *vestment; and*

3 *(B) for a new capital investment, a rate de-*
4 *termined by the Secretary of the Treasury, tak-*
5 *ing into consideration prevailing market yields,*
6 *during the month preceding the beginning of the*
7 *fiscal year in which the related project, facility,*
8 *or separable unit or feature is placed in service,*
9 *on outstanding interest-bearing obligations of the*
10 *United States with periods to maturity com-*
11 *parable to the period between the beginning of*
12 *the fiscal year and the repayment date for the*
13 *new capital investment.*

14 **SEC. 5402. NEW PRINCIPAL AMOUNTS.**

15 *(a) PRINCIPAL AMOUNT.—Effective October 1, 1995,*
16 *an old capital investment has a new principal amount that*
17 *is the sum of—*

18 *(1) the present value of the old payment amounts*
19 *for the old capital investment, calculated using a dis-*
20 *count rate equal to the Treasury rate for the old cap-*
21 *ital investment; and*

22 *(2) an amount equal to \$100,000,000 multiplied*
23 *by a fraction the numerator of which is the principal*
24 *amount of the old payment amounts for the old cap-*
25 *ital investment and the denominator of which is the*

1 *sum of the principal amounts of the old payment*
2 *amounts for all old capital investments.*

3 **(b) DETERMINATION.**—*With the approval of the Sec-*
4 *retary of the Treasury, based solely on consistency with this*
5 *subchapter, the Administrator shall determine the new*
6 *principal amounts under this section and the assignment*
7 *of interest rates to the new principal amounts under section*
8 *5403.*

9 **(c) OLD PAYMENT AMOUNT.**—*For the purposes of this*
10 *section, “old payment amounts” means, for an old capital*
11 *investment, the annual interest and principal that the Ad-*
12 *ministrator would have paid to the United States Treasury*
13 *from October 1, 1995, if this subchapter had not been en-*
14 *acted, assuming that—*

15 **(1) the principal were repaid—**

16 **(A) on the repayment date the Adminis-**
17 *trator assigned before October 1, 1993, to the old*
18 *capital investment, or*

19 **(B) with respect to an old capital invest-**
20 *ment for which the Administrator has not as-*
21 *signed a repayment date before October 1, 1993,*
22 *on a repayment date the Administrator shall as-*
23 *sign to the old capital investment in accordance*
24 *with paragraph 10(d)(1) of the version of De-*

1 *partment of Energy Order RA 6120.2 in effect*
2 *on October 1, 1993; and*

3 *(2) interest were paid—*

4 *(A) at the interest rate the Administrator*
5 *assigned before October 1, 1993, to the old cap-*
6 *ital investment, or*

7 *(B) with respect to an old capital invest-*
8 *ment for which the Administrator has not as-*
9 *signed an interest rate before October 1, 1993, at*
10 *a rate determined by the Secretary of the Treas-*
11 *ury, taking into consideration prevailing market*
12 *yields, during the month preceding the beginning*
13 *of the fiscal year in which the related project, fa-*
14 *ility, or separable unit or feature is placed in*
15 *service, on outstanding interest-bearing obliga-*
16 *tions of the United States with periods to matu-*
17 *rity comparable to the period between the begin-*
18 *ning of the fiscal year and the repayment date*
19 *for the old capital investment.*

20 ***SEC. 5403. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.***

21 *As of October 1, 1995, the unpaid balance on the new*
22 *principal amount established for an old capital investment*
23 *under section 5402 bears interest annually at the Treasury*
24 *rate for the old capital investment until the earlier of the*

1 *date that the new principal amount is repaid or the repay-*
2 *ment date for the new principal amount.*

3 **SEC. 5404. REPAYMENT DATES.**

4 *As of October 1, 1995, the repayment date for the new*
5 *principal amount established for an old capital investment*
6 *under section 5402 is no earlier than the repayment date*
7 *for the old capital investment assumed in section*
8 *5402(c)(1).*

9 **SEC. 5405. PREPAYMENT LIMITATIONS.**

10 *During the period October 1, 1995, through September*
11 *30, 2000, the total new principal amounts of old capital*
12 *investments, as established under section 5402, that the Ad-*
13 *ministrator may pay before their respective repayment*
14 *dates shall not exceed \$100,000,000.*

15 **SEC. 5406. INTEREST RATES FOR NEW CAPITAL INVEST-**
16 **MENTS DURING CONSTRUCTION.**

17 (a) *NEW CAPITAL INVESTMENT.*—*The principal*
18 *amount of a new capital investment includes interest in*
19 *each fiscal year of construction of the related project, facil-*
20 *ity, or separable unit or feature at a rate equal to the one-*
21 *year rate for the fiscal year on the sum of—*

22 (1) *construction expenditures that were made*
23 *from the date construction commenced through the*
24 *end of the fiscal year, and*

25 (2) *accrued interest during construction.*

1 (b) *PAYMENT.*—*The Administrator is not required to*
2 *pay, during construction of the project, facility, or sepa-*
3 *rable unit or feature, the interest calculated, accrued, and*
4 *capitalized under subsection (a).*

5 (c) *ONE-YEAR RATE.*—*For the purposes of this section,*
6 *“one-year rate” for a fiscal year means a rate determined*
7 *by the Secretary of the Treasury, taking into consideration*
8 *prevailing market yields, during the month preceding the*
9 *beginning of the fiscal year, on outstanding interest-bearing*
10 *obligations of the United States with periods to maturity*
11 *of approximately one year.*

12 ***SEC. 5407. INTEREST RATES FOR NEW CAPITAL INVEST-***
13 ***MENTS.***

14 *The unpaid balance on the principal amount of a new*
15 *capital investment bears interest at the Treasury rate for*
16 *the new capital investment from the date the related project,*
17 *facility, or separable unit or feature is placed in service*
18 *until the earlier of the date the new capital investment is*
19 *repaid or the repayment date for the new capital invest-*
20 *ment.*

21 ***SEC. 5408. CREDITS TO ADMINISTRATOR'S PAYMENTS TO***
22 ***THE UNITED STATES TREASURY.***

23 *The Confederated Tribe of the Colville Reservation*
24 *Grand Coulee Dam Settlement Act (Public Law 103–436;*

1 108 Stat. 4577) is amended by striking section 6 and in-
2 serting the following:

3 **“SEC. 6. CREDITS TO ADMINISTRATOR’S PAYMENTS TO THE**
4 **UNITED STATES TREASURY.**

5 “So long as the Administrator makes annual pay-
6 ments to the tribes under the settlement agreement, the Ad-
7 ministrator shall apply against amounts otherwise payable
8 by the Administrator to the United States Treasury a credit
9 that reduces the Administrator’s payment in the amount
10 and for each fiscal year as follows: \$15,250,000 in fiscal
11 year 1996; \$15,860,000 in fiscal year 1997; \$16,490,000 in
12 fiscal year 1998; \$17,150,000 in fiscal year 1999;
13 \$17,840,000 in fiscal year 2000; and \$4,100,000 in each
14 succeeding fiscal year.”.

15 **SEC. 5409. CONTRACT PROVISIONS.**

16 In each contract of the Administrator that provides for
17 the Administrator to sell electric power, transmission, or
18 related services, and that is in effect after September 30,
19 1995, the Administrator shall offer to include, or as the case
20 may be, shall offer to amend to include, provisions specify-
21 ing that after September 30, 1995—

22 (1) the Administrator shall establish rates and
23 charges on the basis that—

1 (A) the principal amount of an old capital
2 investment shall be no greater than the new
3 principal amount established under section 5402;

4 (B) the interest rate applicable to the un-
5 paid balance of the new principal amount of an
6 old capital investment shall be no greater than
7 the interest rate established under section 5403;

8 (C) any payment of principal of an old
9 capital investment shall reduce the outstanding
10 principal balance of the old capital investment
11 in the amount of the payment at the time the
12 payment is tendered; and

13 (D) any payment of interest on the unpaid
14 balance of the new principal amount of an old
15 capital investment shall be a credit against the
16 appropriate interest account in the amount of
17 the payment at the time the payment is ten-
18 dered;

19 (2) apart from charges necessary to repay the
20 new principal amount of an old capital investment as
21 established under section 5402 and to pay the interest
22 on the principal amount under section 5403, no
23 amount may be charged for return to the United
24 States Treasury as repayment for or return on an old

1 *capital investment, whether by way of rate, rent, lease*
2 *payment, assessment, user charge, or any other fee;*

3 (3) *amounts provided under section 1304 of title*
4 *31, United States Code, shall be available to pay, and*
5 *shall be the sole source for payment of, a judgment*
6 *against or settlement by the Administrator or the*
7 *United States on a claim for a breach of the contract*
8 *provisions required by this subchapter; and*

9 (4) *the contract provisions specified in this sub-*
10 *chapter do not—*

11 (A) *preclude the Administrator from recov-*
12 *ering, through rates or other means, any tax that*
13 *is generally imposed on electric utilities in the*
14 *United States, or*

15 (B) *affect the Administrator's authority*
16 *under applicable law, including section 7(g) of*
17 *the Pacific Northwest Electric Power Planning*
18 *and Conservation Act (16 U.S.C. 839e(g)), to—*

19 (i) *allocate costs and benefits, includ-*
20 *ing but not limited to fish and wildlife*
21 *costs, to rates or resources, or*

22 (ii) *design rates.*

23 **SEC. 5410. SAVINGS PROVISIONS.**

24 (a) *REPAYMENT.—This subchapter does not affect the*
25 *obligation of the Administrator to repay the principal asso-*

1 ciated with each capital investment, and to pay interest
 2 on the principal, only from the “Administrator’s net pro-
 3 ceeds,” as defined in section 13(b) of the Federal Columbia
 4 River Transmission System Act (16 U.S.C. 838k(b)).

5 (b) *PAYMENT OF CAPITAL INVESTMENT.*—Except as
 6 provided in section 5405, this subchapter does not affect the
 7 authority of the Administrator to pay all or a portion of
 8 the principal amount associated with a capital investment
 9 before the repayment date for the principal amount.

10 **Subchapter B—Alaska Power** 11 **Marketing Administration Sale**

12 **SEC. 5411. SHORT TITLE.**

13 This subchapter may be cited as the “Alaska Power
 14 Administration Asset Sale and Termination Act”.

15 **SEC. 5412. DEFINITIONS.**

16 For Purposes of this subchapter:

17 (1) The term “Eklutna” means Eklutna Hydro-
 18 electric Project and related assets as described in sec-
 19 tion 4 and Exhibit A of the Eklutna Purchase Agree-
 20 ment.

21 (2) The term “Eklutna Purchase Agreement”
 22 means the August 2, 1989, Eklutna Purchase Agree-
 23 ment between the Alaska Power Administration of the
 24 Department of Energy and the Eklutna Purchasers,

1 together with any amendments thereto adopted before
2 the date of enactment of this Act.

3 (3) The term “Eklutna Purchasers” means the
4 Municipality of Anchorage doing business as Municipi-
5 pal Light and Power, the Chugach Electric Associa-
6 tion, Inc. and the Matanuska Electric Association,
7 Inc.

8 (4) The term “Snettisham” means the
9 Snettisham Hydroelectric Project and related assets
10 as described in section 4 and Exhibit A of the
11 Snettisham Purchase Agreement.

12 (5) The term “Snettisham Purchase Agreement”
13 means the February 10, 1989, Snettisham Purchase
14 Agreement between the Alaska Power Administration
15 of the Department of Energy and the Alaska Power
16 Authority and its successors in interest, together with
17 any amendments thereto adopted before the date of en-
18 actment of this Act.

19 (6) The term “Snettisham Purchaser” means the
20 Alaska Industrial Development and Export Authority
21 or a successor State agency or authority.

22 **SEC. 5413. SALE OF EKLUTNA AND SNETTISHAM HYDRO-**
23 **ELECTRIC PROJECTS.**

24 (a) SALE OF EKLUTNA.—The Secretary of Energy is
25 authorized and directed to sell Eklutna to the Eklutna Pur-

1 *chasers in accordance with the terms of this subchapter and*
2 *the Eklutna Purchase Agreement.*

3 (b) *SALE OF SNETTISHAM.*—*The Secretary of Energy*
4 *is authorized and directed to sell Snettisham to the*
5 *Snettisham Purchaser in accordance with the terms of this*
6 *subchapter and the Snettisham Purchase Agreement.*

7 (c) *COOPERATION OF OTHER AGENCIES.*—*The heads*
8 *of other Federal departments, agencies, and instrumental-*
9 *ities of the United States shall assist the Secretary of En-*
10 *ergy in implementing the sales and conveyances authorized*
11 *and directed by this subchapter.*

12 (d) *PROCEEDS.*—*Proceeds from the sales required by*
13 *this subchapter shall be deposited in the Treasury of the*
14 *United States to the credit of miscellaneous receipts.*

15 (e) *PREPARATION OF EKLUTNA AND SNETTISHAM FOR*
16 *SALE.*—*The Secretary of Energy is authorized and directed*
17 *to use such funds from the sale of electric power by the Alas-*
18 *ka Power Administration as may be necessary to prepare,*
19 *survey, and acquire Eklutna and Snettisham assets for sale*
20 *and conveyance. Such preparations and acquisitions shall*
21 *provide sufficient title to ensure the beneficial use, enjoy-*
22 *ment, and occupancy by the purchaser.*

23 (f) *CONTRIBUTED FUNDS.*—*Notwithstanding any*
24 *other provision of law, the Alaska Power Administration*
25 *is authorized to receive, administer, and expend such con-*

1 *tributed funds as may be provided by the Eklutna Pur-*
2 *chasers or customers or the Snettisham Purchaser or cus-*
3 *tomers for the purposes of upgrading, improving, maintain-*
4 *ing, or administering Eklutna or Snettisham. Upon the ter-*
5 *mination of the Alaska Power Administration under section*
6 *5414(f), the Secretary of Energy shall administer and ex-*
7 *pend any remaining balances of such contributed funds for*
8 *the purposes intended by the contributors.*

9 **SEC. 5414. EXEMPTION AND OTHER PROVISIONS.**

10 (a) *FEDERAL POWER ACT.*—

11 (1) *After the sales authorized by this subchapter*
12 *occur, Eklutna and Snettisham, including future*
13 *modifications, shall continue to be exempt from the*
14 *requirements of part I of the Federal Power Act (16*
15 *U.S.C. 791a et seq.), except as provided in subsection*
16 *(b).*

17 (2) *The exemption provided by paragraph (1)*
18 *shall not affect the Memorandum of Agreement en-*
19 *tered into among the State of Alaska, the Eklutna*
20 *Purchasers, the Alaska Energy Authority, and Fed-*
21 *eral fish and wildlife agencies regarding the protec-*
22 *tion, mitigation of, damages to, and enhancement of*
23 *fish and wildlife, dated August 7, 1991, which re-*
24 *mains in full force and effect.*

1 (3) *Nothing in this subchapter or the Federal*
2 *Power Act (16 U.S.C. 791 et seq.) preempts the State*
3 *of Alaska from carrying out the responsibilities and*
4 *authorities of the Memorandum of Agreement.*

5 (b) *SUBSEQUENT TRANSFERS.—Except for subsequent*
6 *assignment of interest in Eklutna by the Eklutna Pur-*
7 *chasers to the Alaska Electric Generation and Transmission*
8 *Cooperative Inc. pursuant to section 19 of the Eklutna Pur-*
9 *chase Agreement, upon any subsequent sale or transfer of*
10 *any portion of Eklutna or Snettisham from the Eklutna*
11 *Purchasers or the Snettisham Purchaser to any other per-*
12 *son, the exemption set forth in paragraph (1) of subsection*
13 *(a) of this section shall cease to apply to such portion.*

14 (c) *REVIEW.—*

15 (1) *The United States District Court for the Dis-*
16 *trict of Alaska shall have jurisdiction to review deci-*
17 *sions made under the Memorandum of Agreement and*
18 *to enforce the provisions of the Memorandum of*
19 *Agreement, including the remedy of specific perform-*
20 *ance.*

21 (2) *An action seeking review of a Fish and Wild-*
22 *life Program (“Program”) of the Governor of Alaska*
23 *under the Memorandum of Agreement or challenging*
24 *actions of any of the parties to the Memorandum of*
25 *Agreement prior to the adoption of the Program shall*

1 *be brought not later than 90 days after the date on*
2 *which the Program is adopted by the Governor of*
3 *Alaska, or be barred.*

4 (3) *An action seeking review of implementation*
5 *of the Program shall be brought not later than 90*
6 *days after the challenged act implementing the Pro-*
7 *gram, or be barred.*

8 (d) *EKLUTNA LANDS.—With respect to Eklutna lands*
9 *described in Exhibit A of the Eklutna Purchase Agreement:*

10 (1) *The Secretary of the Interior shall issue*
11 *rights-of-way to the Alaska Power Administration for*
12 *subsequent reassignment to the Eklutna Purchasers—*

13 (A) *at no cost to the Eklutna Purchasers;*

14 (B) *to remain effective for a period equal to*
15 *the life of Eklutna as extended by improvements,*
16 *repairs, renewals, or replacements; and*

17 (C) *sufficient for the operation of, mainte-*
18 *nance of, repair to, and replacement of, and ac-*
19 *cess to, Eklutna facilities located on military*
20 *lands and lands managed by the Bureau of Land*
21 *Management, including lands selected by the*
22 *State of Alaska.*

23 (2) *Fee title to lands at Anchorage Substation*
24 *shall be transferred to Eklutna Purchasers at no addi-*
25 *tional cost if the Secretary of the Interior determines*

1 *that pending claims to, and selections of, those lands*
2 *are invalid or relinquished.*

3 (3) *With respect to the Eklutna lands identified*
4 *in paragraph 1 of Exhibit A of the Eklutna Purchase*
5 *Agreement, the State of Alaska may select, and the*
6 *Secretary of the Interior shall convey to the State, im-*
7 *proved lands under the selection entitlements in sec-*
8 *tion 6 of the Act of July 7, 1958 (commonly known*
9 *as the Alaska Statehood Act, Public Law 85–508; 72*
10 *Stat. 339), and the North Anchorage Land Agreement*
11 *dated January 31, 1983. This conveyance shall be*
12 *subject to the rights-of-way provided to the Eklutna*
13 *Purchasers under paragraph (1).*

14 (e) *SNETTISHAM LANDS.—With respect to the*
15 *Snettisham lands identified in paragraph 1 of Exhibit A*
16 *of the Snettisham Purchase Agreement and Public Land*
17 *Order No. 5108, the State of Alaska may select, and the*
18 *Secretary of the Interior shall convey to the State of Alaska,*
19 *improved lands under the selection entitlements in section*
20 *6 of the Act of July 7, 1958 (commonly known as the Alaska*
21 *Statehood Act, Public Law 85–508; 72 Stat. 339).*

22 (f) *TERMINATION OF ALASKA POWER ADMINISTRA-*
23 *TION.—Not later than one year after both of the sales au-*
24 *thorized in section 5413 have occurred, as measured by the*

1 *Transaction Dates stipulated in the Purchase Agreements,*
2 *the Secretary of Energy shall—*

3 (1) *complete the business of, and close out, the*
4 *Alaska Power Administration;*

5 (2) *submit to Congress a report documenting the*
6 *sales; and*

7 (3) *return unobligated balances of funds appro-*
8 *priated for the Alaska Power Administration to the*
9 *Treasury of the United States.*

10 *(g) REPEALS.—*

11 (1) *The Act of July 31, 1950 (64 Stat. 382) is*
12 *repealed effective on the date that Eklutna is conveyed*
13 *to the Eklutna Purchasers.*

14 (2) *Section 204 of the Flood Control Act of 1962*
15 *(76 Stat. 1193) is repealed effective on the date that*
16 *Snettisham is conveyed to the Snettisham Purchaser.*

17 (3) *The Act of August 9, 1955, concerning water*
18 *resources investigation in Alaska (69 Stat. 618), is re-*
19 *pealed.*

20 *(h) DOE ORGANIZATION ACT.—As of the later of the*
21 *two dates determined in paragraphs (1) and (2) of sub-*
22 *section (g), section 302(a) of the Department of Energy Or-*
23 *ganization Act (42 U.S.C. 7152(a)) is amended—*

24 (1) *in paragraph (1)—*

25 (A) *by striking subparagraph (C); and*

1 (B) by redesignating subparagraphs (D),
2 (E), and (F) as subparagraphs (C), (D), and (E)
3 respectively; and

4 (2) in paragraph (2) by striking out “and the
5 Alaska Power Administration” and by inserting
6 “and” after “Southwestern Power Administration,”.

7 (i) *DISPOSAL*.—The sales of Eklutna and Snettisham
8 under this subchapter are not considered disposal of Federal
9 surplus property under the Federal Property and Adminis-
10 trative Services Act of 1949 (40 U.S.C. 484) or the Act of
11 October 3, 1944, popularly known as the “Surplus Property
12 Act of 1944” (50 U.S.C. App. 1622).

13 **SEC. 5415. OTHER FEDERAL HYDROELECTRIC PROJECTS.**

14 The provisions of this subchapter regarding the sale
15 of the Alaska Power Administration’s hydroelectric projects
16 under section 5413 and the exemption of these projects from
17 part I of the Federal Power Act under section 5414 do not
18 apply to other Federal hydroelectric projects.

19 **CHAPTER 8—OUTER CONTINENTAL SHELF**
20 **DEEP WATER ROYALTY RELIEF**

21 **SEC. 5421. SHORT TITLE.**

22 This chapter may be referred to as the “Outer Con-
23 tinental Shelf Deep Water Royalty Relief Act”.

1 **SEC. 5422. AMENDMENTS TO THE OUTER CONTINENTAL**
2 **SHELF LANDS ACT.**

3 *Section 8(a)(3) of the Outer Continental Shelf Lands*
4 *Act (43 U.S.C. 1337(a)(3)), is amended—*

5 *(1) by designating the provisions of paragraph*
6 *(3) as subparagraph (A) of such paragraph (3); and*
7 *(2) by inserting after subparagraph (A), as so*
8 *designated, the following:*

9 *“(B) In the Western and Central Planning*
10 *Areas of the Gulf of Mexico and the portion of*
11 *the Eastern Planning Area of the Gulf of Mexico*
12 *encompassing whole lease blocks lying west of 87*
13 *degrees, 30 minutes West longitude, the Secretary*
14 *may, in order to—*

15 *“(i) promote development or increased*
16 *production on producing or non-producing*
17 *leases; or*

18 *“(ii) encourage production of marginal*
19 *resources on producing or non-producing*
20 *leases;*

21 *through primary, secondary, or tertiary recovery*
22 *means, reduce or eliminate any royalty or net*
23 *profit share set forth in the lease(s). With the les-*
24 *see’s consent, the Secretary may make other*
25 *modifications to the royalty or net profit share*

1 *terms of the lease in order to achieve these pur-*
2 *poses.*

3 “(C)(i) *Notwithstanding the provisions of*
4 *this Act other than this subparagraph, with re-*
5 *spect to any lease or unit in existence on the*
6 *date of enactment of the Outer Continental Shelf*
7 *Deep Water Royalty Relief Act meeting the re-*
8 *quirements of this subparagraph, no royalty*
9 *payments shall be due on new production, as de-*
10 *efined in clause (iv) of this subparagraph, from*
11 *any lease or unit located in water depths of 200*
12 *meters or greater in the Western and Central*
13 *Planning Areas of the Gulf of Mexico, including*
14 *that portion of the Eastern Planning Area of the*
15 *Gulf of Mexico encompassing whole lease blocks*
16 *lying west of 87 degrees, 30 minutes West lon-*
17 *gitude, until such volume of production as deter-*
18 *mined pursuant to clause (ii) has been produced*
19 *by the lessee.*

20 “(ii) *Upon submission of a complete appli-*
21 *cation by the lessee, the Secretary shall deter-*
22 *mine within 180 days of such application wheth-*
23 *er new production from such lease or unit would*
24 *be economic in the absence of the relief from the*
25 *requirement to pay royalties provided for by*

1 *clause (i) of this subparagraph. In making such*
2 *determination, the Secretary shall consider the*
3 *increased technological and financial risk of deep*
4 *water development and all costs associated with*
5 *exploring, developing, and producing from the*
6 *lease. The lessee shall provide information re-*
7 *quired for a complete application to the Sec-*
8 *retary prior to such determination. The Sec-*
9 *retary shall clearly define the information re-*
10 *quired for a complete application under this sec-*
11 *tion. Such application may be made on the basis*
12 *of an individual lease or unit. If the Secretary*
13 *determines that such new production would be*
14 *economic in the absence of the relief from the re-*
15 *quirement to pay royalties provided for by clause*
16 *(i) of this subparagraph, the provisions of clause*
17 *(i) shall not apply to such production. If the*
18 *Secretary determines that such new production*
19 *would not be economic in the absence of the relief*
20 *from the requirement to pay royalties provided*
21 *for by clause (i), the Secretary must determine*
22 *the volume of production from the lease or unit*
23 *on which no royalties would be due in order to*
24 *make such new production economically viable;*
25 *except that for new production as defined in*

1 *clause (iv)(I), in no case will that volume be less*
2 *than 17.5 million barrels of oil equivalent in*
3 *water depths of 200 to 400 meters, 52.5 million*
4 *barrels of oil equivalent in 400 to 800 meters of*
5 *water, and 87.5 million barrels of oil equivalent*
6 *in water depths greater than 800 meters. Rede-*
7 *termination of the applicability of clause (i)*
8 *shall be undertaken by the Secretary when re-*
9 *quested by the lessee prior to the commencement*
10 *of the new production and upon significant*
11 *change in the factors upon which the original de-*
12 *termination was made. The Secretary shall make*
13 *such redetermination within 120 days of submis-*
14 *sion of a complete application. The Secretary*
15 *may extend the time period for making any de-*
16 *termination or redetermination under this clause*
17 *for 30 days, or longer if agreed to by the appli-*
18 *cant, if circumstances so warrant. The lessee*
19 *shall be notified in writing of any determination*
20 *or redetermination and the reasons for and as-*
21 *sumptions used for such determination. Any de-*
22 *termination or redetermination under this clause*
23 *shall be a final agency action. The Secretary's*
24 *determination or redetermination shall be judi-*
25 *cially reviewable under section 10(a) of the Ad-*

1 *ministrative Procedure Act (5 U.S.C. 702), only*
2 *for actions filed within 30 days of the Sec-*
3 *retary's determination or redetermination.*

4 “(iii) *In the event that the Secretary fails*
5 *to make the determination or redetermination*
6 *called for in clause (ii) upon application by the*
7 *lessee within the time period, together with any*
8 *extension thereof, provided for by clause (ii), no*
9 *royalty payments shall be due on new produc-*
10 *tion as follows:*

11 “(I) *For new production, as defined in*
12 *clause (iv) (I) of this subparagraph, no roy-*
13 *alty shall be due on such production accord-*
14 *ing to the schedule of minimum volumes*
15 *specified in clause (ii) of this subparagraph.*

16 “(II) *For new production, as defined*
17 *in clause (iv) (II) of this subparagraph, no*
18 *royalty shall be due on such production for*
19 *one year following the start of such produc-*
20 *tion.*

21 “(iv) *For purposes of this subparagraph, the*
22 *term ‘new production’ is—*

23 “(I) *any production from a lease from*
24 *which no royalties are due on production,*
25 *other than test production, prior to the date*

1 *of enactment of the Outer Continental Shelf*
2 *Deep Water Royalty Relief Act; or*

3 “(II) *any production resulting from*
4 *lease development activities pursuant to a*
5 *Development Operations Coordination Doc-*
6 *ument, or supplement thereto that would ex-*
7 *pend production significantly beyond the*
8 *level anticipated in the Development Oper-*
9 *ations Coordination Document, approved by*
10 *the Secretary after the date of enactment of*
11 *the Outer Continental Shelf Deep Water*
12 *Royalty Relief Act.*

13 “(v) *During the production of volumes de-*
14 *termined pursuant to clauses (ii) or (iii) of this*
15 *subparagraph, in any year during which the*
16 *arithmetic average of the closing prices on the*
17 *New York Mercantile Exchange for light sweet*
18 *crude oil exceeds \$28.00 per barrel, any produc-*
19 *tion of oil will be subject to royalties at the lease*
20 *stipulated royalty rate. Any production subject*
21 *to this clause shall be counted toward the produc-*
22 *tion volume determined pursuant to clause (ii)*
23 *or (iii). Estimated royalty payments will be*
24 *made if such average of the closing prices for the*
25 *previous year exceeds \$28.00. After the end of the*

1 *calendar year, when the new average price can*
2 *be calculated, lessees will pay any royalties due,*
3 *with interest but without penalty, or can apply*
4 *for a refund, with interest, of any overpayment.*

5 “(vi) *During the production of volumes de-*
6 *termined pursuant to clause (ii) or (iii) of this*
7 *subparagraph, in any year during which the*
8 *arithmetic average of the closing prices on the*
9 *New York Mercantile Exchange for natural gas*
10 *exceeds \$3.50 per million British thermal units,*
11 *any production of natural gas will be subject to*
12 *royalties at the lease stipulated royalty rate. Any*
13 *production subject to this clause shall be counted*
14 *toward the production volume determined pursu-*
15 *ant to clauses (ii) or (iii). Estimated royalty*
16 *payments will be made if such average of the*
17 *closing prices for the previous year exceeds \$3.50.*
18 *After the end of the calendar year, when the new*
19 *average price can be calculated, lessees will pay*
20 *any royalties due, with interest but without pen-*
21 *alty, or can apply for a refund, with interest, of*
22 *any overpayment.*

23 “(vii) *The prices referred to in clauses (v)*
24 *and (vi) of this subparagraph shall be changed*
25 *during any calendar year after 1994 by the per-*

1 centage, if any, by which the implicit price
2 deflator for the gross domestic product changed
3 during the preceding calendar year.”.

4 **SEC. 5423. NEW LEASES.**

5 Section 8(a)(1) of the Outer Continental Shelf Lands
6 Act, as amended (43 U.S.C. 1337 (a)(1)), is amended—

7 (1) by redesignating subparagraph (H) as sub-
8 paragraph (I);

9 (2) by striking “or” at the end of subparagraph
10 (G); and

11 (3) by inserting after subparagraph (G) the fol-
12 lowing new subparagraph:

13 “(H) cash bonus bid with royalty at no less
14 than 12 and 1/2 per centum fixed by the Sec-
15 retary in amount or value of production saved,
16 removed, or sold, and with suspension of royal-
17 ties for a period, volume, or value of production
18 determined by the Secretary, which suspensions
19 may vary based on the price of production from
20 the lease; or”.

21 **SEC. 5424. LEASE SALES.**

22 For all tracts located in water depths of 200 meters
23 or greater in the Western and Central Planning Area of
24 the Gulf of Mexico, including that portion of the Eastern
25 Planning Area of the Gulf of Mexico encompassing whole

1 lease blocks lying west of 87 degrees, 30 minutes West lon-
2 gitude, any lease sale within seven years of the date of en-
3 actment of this chapter, shall use the bidding system author-
4 ized in section 8(a)(1)(H) of the Outer Continental Shelf
5 Lands Act, as amended by this chapter, except that the sus-
6 pension of royalties shall be set at a volume of not less than
7 the following:

8 (1) 17.5 million barrels of oil equivalent for
9 leases in water depths of 200 to 400 meters;

10 (2) 52.5 million barrels of oil equivalent for
11 leases in 400 to 800 meters of water; and

12 (3) 87.5 million barrels of oil equivalent for
13 leases in water depths greater than 800 meters.

14 **SEC. 5425. REGULATIONS.**

15 The Secretary shall promulgate such rules and regula-
16 tions as are necessary to implement the provisions of this
17 chapter within 180 days after the enactment of this Act.

18 **SEC. 5426. SAVINGS CLAUSE.**

19 Nothing in this chapter shall be construed to affect any
20 offshore pre-leasing, leasing, or development moratorium,
21 including any moratorium applicable to the Eastern Plan-
22 ning Area of the Gulf of Mexico located off the Gulf Coast
23 of Florida.

1 **CHAPTER 9—EXPORTS OF ALASKA NORTH**
2 **SLOPE OIL**

3 **SEC. 5431. EXPORTS OF ALASKAN NORTH SLOPE OIL.**

4 *Section 28 of the Mineral Leasing Act (30 U.S.C. 185)*
5 *is amended by amending subsection (s) to read as follows:*

6 “EXPORTS OF ALASKAN NORTH SLOPE OIL

7 “(s)(1) *Subject to paragraphs (2) through (6) of this*
8 *subsection and notwithstanding any other provision of this*
9 *Act or any other provision of law (including any regula-*
10 *tion) applicable to the export of oil transported by pipeline*
11 *over right-of-way granted pursuant to section 203 of the*
12 *Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652),*
13 *such oil may be exported unless the President finds that*
14 *exportation of this oil is not in the national interest. The*
15 *President shall make his national interest determination*
16 *within five months of the date of enactment of this sub-*
17 *section. In evaluating whether exports of this oil are in the*
18 *national interest, the President shall at a minimum con-*
19 *sider—*

20 “(A) *whether exports of this oil would di-*
21 *minish the total quantity or quality of petroleum*
22 *available to the United States;*

23 “(B) *the results of an appropriate environ-*
24 *mental review, including consideration of appro-*
25 *priate measures to mitigate any potential ad-*
26 *verse effects of exports of this oil on the environ-*

1 *ment, which shall be completed within four*
2 *months of the date of the enactment of this sub-*
3 *section; and*

4 “(C) *whether exports of this oil are likely to*
5 *cause sustained material oil supply shortages or*
6 *sustained oil prices significantly above world*
7 *market levels that would cause sustained mate-*
8 *rial adverse employment effects in the United*
9 *States or that would cause substantial harm to*
10 *consumers, including noncontiguous States and*
11 *Pacific territories. If the President determines*
12 *that exports of this oil are in the national inter-*
13 *est, he may impose such terms and conditions*
14 *(other than a volume limitation) as are nec-*
15 *essary or appropriate to ensure that such exports*
16 *are consistent with the national interest.*

17 “(2) *Except in the case of oil exported to a country*
18 *with which the United States entered into a bilateral inter-*
19 *national oil supply agreement before November 26, 1979,*
20 *or to a country pursuant to the International Emergency*
21 *Oil Sharing Plan of the International Energy Agency, any*
22 *oil transported by pipeline over right-of-way granted pur-*
23 *suant to section 203 of the Trans-Alaska Pipeline Author-*
24 *ization Act (43 U.S.C. 1652) shall, when exported, be trans-*
25 *ported by a vessel documented under the laws of the United*

1 *States and owned by a citizen of the United States (as de-*
2 *termined in accordance with section 2 of the Shipping Act,*
3 *1916 (46 U.S.C. App. 802)).*

4 “(3) *Nothing in this subsection shall restrict the au-*
5 *thority of the President under the Constitution, the Inter-*
6 *national Emergency Economic Powers Act (50 U.S.C. 1701*
7 *et seq.), the National Emergencies Act (50 U.S.C. 1601 et*
8 *seq.), or part B of title II of the Energy Policy and Con-*
9 *servation Act (42 U.S.C. 6271–76) to prohibit exports.*

10 “(4) *The Secretary of Commerce shall issue any rules*
11 *necessary for implementation of the President’s national in-*
12 *terest determination, including any licensing requirements*
13 *and conditions, within 30 days of the date of such deter-*
14 *mination by the President. The Secretary of Commerce shall*
15 *consult with the Secretary of Energy in administering the*
16 *provisions of this subsection.*

17 “(5) *If the Secretary of Commerce finds that exporting*
18 *oil under authority of this subsection has caused sustained*
19 *material oil supply shortages or sustained oil prices signifi-*
20 *cantly above world market levels and further finds that*
21 *these supply shortages or price increases have caused or are*
22 *likely to cause sustained material adverse employment ef-*
23 *fects in the United States, the Secretary of Commerce, in*
24 *consultation with the Secretary of Energy, shall rec-*
25 *ommend, and the President may take, appropriate action*

1 *concerning exports of this oil, which may include modifying*
2 *or revoking authority to export such oil.*

3 *“(6) Administrative action under this subsection is not*
4 *subject to sections 551 and 553 through 559 of title 5, Unit-*
5 *ed States Code.”.*

6 **CHAPTER 10—SKI AREA PERMIT RENTAL**
7 **CHARGES ON NATIONAL FOREST SYS-**
8 **TEM LANDS**

9 **SEC. 5441. SKI AREA PERMIT RENTAL CHARGE.**

10 *(a) The Secretary of Agriculture shall charge a rental*
11 *charge for all ski area permits issued pursuant to section*
12 *3 of the National Forest Ski Area Permit Act of 1986 (16*
13 *U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101,*
14 *chapter 144; 16 U.S.C. 497), or the 9th through 20th para-*
15 *graphs under the heading “SURVEYING THE PUBLIC LANDS”*
16 *under the heading “UNDER THE DEPARTMENT OF THE IN-*
17 *TERIOR” in the Act of June 4, 1897 (30 Stat. 34, chapter*
18 *2), on National Forest System lands. Permit rental charges*
19 *for permits issued pursuant to the National Forest Ski Area*
20 *Permit Act of 1986 shall be calculated as set forth in sub-*
21 *section (b). Permit rental charges for existing ski area per-*
22 *mits issued pursuant to the Act of March 4, 1915, and the*
23 *Act of June 4, 1897, shall be calculated in accordance with*
24 *those existing permits: Provided, That a permittee may, at*

1 *the permittee's option, use the calculation method set forth*
2 *in subsection (b).*

3 **(b)(1)** *The ski area permit rental charge (SAPRC)*
4 *shall be calculated by adding the permittee's gross revenues*
5 *from lift ticket/year-round ski area use pass sales plus reve-*
6 *nue from ski school operations (LT+SS) and multiplying*
7 *such total by the slope transport feet percentage (STFP) on*
8 *National Forest System land. That amount shall be in-*
9 *creased by the gross year-round revenue from ancillary fa-*
10 *cilities (GRAF) physically located on national forest land,*
11 *including all permittee or subpermittee lodging, food serv-*
12 *ice, rental shops, parking and other ancillary operations,*
13 *to determine the adjusted gross revenue (AGR) subject to*
14 *the permit rental charge. The final rental charge shall be*
15 *calculated by multiplying the AGR by the following per-*
16 *centages for each revenue bracket and adding the total for*
17 *each revenue bracket:*

18 **(A)** *1.5 percent of all adjusted gross revenue*
19 *below \$3,000,000;*

20 **(B)** *2.5 percent for adjusted gross revenue be-*
21 *tween \$3,000,000 and \$15,000,000;*

22 **(C)** *2.75 percent for adjusted gross revenue be-*
23 *tween \$15,000,000 and \$50,000,000; and*

24 **(D)** *4.0 percent for the amount of adjusted gross*
25 *revenue that exceeds \$50,000,000.*

1 (2) *In cases where ski areas are only partially located*
2 *on national forest lands, the slope transport feet percentage*
3 *on national forest land referred to in subsection (b) shall*
4 *be calculated as generally described in the Forest Service*
5 *Manual in effect as of January 1, 1992. Revenues from Nor-*
6 *dic ski operations shall be included or excluded from the*
7 *rental charge calculation according to the percentage of*
8 *trails physically located on national forest land.*

9 (3) *In order to ensure that the rental charge remains*
10 *fair and equitable to both the United States and ski area*
11 *permittees, the adjusted gross revenue figures for each reve-*
12 *nue bracket in paragraph (1) shall be adjusted annually*
13 *by the percent increase or decrease in the national*
14 *Consumer Price Index for the preceding calendar year.*

15 (c) *The rental charge set forth in subsection (b) shall*
16 *be due on June 1 of each year and shall be paid or pre-*
17 *paid by the permittee on a monthly, quarterly, annual or*
18 *other schedule as determined appropriate by the Secretary*
19 *in consultation with the permittee. Unless mutually agreed*
20 *otherwise by the Secretary of Agriculture and the permittee,*
21 *the payment or prepayment schedule shall conform to the*
22 *permittee's schedule in effect prior to the date of enactment*
23 *of this Act. To reduce costs to the permittee and the Forest*
24 *Service, the Secretary shall each year provide the permittee*
25 *with a standardized form and worksheets (including annual*

1 rental charge calculation brackets and rates) to be used for
2 rental charge calculation and submitted with the rental
3 charge payment.

4 (d) The ski area permit rental charge set forth in this
5 section shall become effective on June 1, 1996 and cover re-
6 ceipts retroactive to June 1, 1995: Provided, however, That
7 if a permittee has paid rental charges for the period June
8 1, 1995, to June 1, 1996, under the graduated rate rental
9 charge system formula in effect prior to the date of enact-
10 ment of this Act, such rental charges shall be credited to-
11 ward the new rental charge due on June 1, 1996. In order
12 to ensure increasing rental charge receipt levels to the Unit-
13 ed States during transition from the graduated rate rental
14 charge system formula to the formula of this Act, the rental
15 charge paid by any individual permittee shall be—

16 (1) for the 1995–1996 permit year, shall be ei-
17 ther the rental charge paid for the preceding 1994–
18 1995 base year or the rental charge calculated pursu-
19 ant to this Act, whichever is higher;

20 (2) for the 1996–1997 permit year, the rental
21 charge paid shall be either the rental charge paid for
22 the 1994–1995 base year or the rental charge cal-
23 culated pursuant to this Act, whichever is higher; and

24 (3) for the 1997–1998 permit year, the rental
25 charge for the 1994–1995 base year or the rental

1 *charge calculated pursuant to this Act, whichever is*
2 *higher.*

3 *If an individual permittee's adjusted gross revenue for the*
4 *1995–1996, 1996–1997, or 1997–1998 permit years falls*
5 *more than 10 percent below the 1994–1995 base year, the*
6 *rental charge paid shall be the rental charge calculated pur-*
7 *suant to this Act.*

8 *(e) Under no circumstances shall revenue, or*
9 *subpermittee revenue (other than lift ticket, area use pass,*
10 *or ski school sales) obtained from operations physically lo-*
11 *cated on non-national forest land be included in the ski*
12 *area permit rental charge calculation.*

13 *(f) To reduce administrative costs on ski area permit-*
14 *tees and the Forest Service the terms “revenue” and “sales”,*
15 *as used in this section, shall mean actual income from sales*
16 *and shall not include sales of operating equipment, refunds,*
17 *rent paid to the permittee by sublessees, sponsor contribu-*
18 *tions to special events or any amounts attributable to em-*
19 *ployee gratuities or employee lift tickets, discounts, or other*
20 *goods or services (except for bartered goods and complimen-*
21 *tary lift tickets) for which the permittee does not receive*
22 *money.*

23 *(g) In cases where an area of national forest land is*
24 *under a ski area permit but the permittee does not have*
25 *revenue or sales qualifying for rental charge payment pur-*

1 *suant to subsection (a), the permittee shall pay an annual*
 2 *minimum rental charge of \$2 for each national forest acre*
 3 *under permit or a percentage of appraised land value, as*
 4 *determined to be appropriate by the Secretary.*

5 *(h) Where the new rental charge provided for in sub-*
 6 *section (b)(1) results in an increase in permit rental charge*
 7 *greater than one half of one percent of the permittee's ad-*
 8 *justed gross revenue (as determined under subsection*
 9 *(b)(1)), the new rental charge shall be phased in over a 5-*
 10 *year period in a manner providing for increases of approxi-*
 11 *mately equal increments.*

12 **CHAPTER 11—PARK ENTRANCE FEES**

13 **SEC. 5451. FEES.**

14 *(a) ADMISSION FEES.—Section 4(a) of the Land and*
 15 *Water Conservation Fund Act of 1965 (16 U.S.C. 460l–*
 16 *6a(a)) is amended—*

17 *(1) in the first sentence of the subsection by*
 18 *striking “no more than 21”;*

19 *(2) in the first sentence of paragraph (1)(A)(i)*
 20 *by striking “\$25” and inserting “\$50”;*

21 *(3) in the second sentence of paragraph (1)(B)*
 22 *by striking “\$15” and inserting “\$25”;*

23 *(4) in paragraph (2) by striking the fourth, fifth,*
 24 *and sixth sentences and inserting “The fee for a sin-*
 25 *gle-visit permit at any designated area shall be col-*

1 *lected on a per person basis, not to exceed \$6 per per-*
2 *son, including for persons entering by private, non-*
3 *commercial vehicle.”;*

4 *(5) in paragraph (3)—*

5 *(A) in the third sentence by inserting*
6 *“Great” before “Smoky”; and*

7 *(B) by striking the last sentence;*

8 *(6) in paragraph (4)—*

9 *(A) by striking the second sentence and in-*
10 *serting “Such permit shall be nontransferable,*
11 *shall be issued for a one-time charge, which shall*
12 *be set at the same rate as the fee for a Golden*
13 *Eagle Passport, and shall entitle the permittee to*
14 *free admission into any area designated pursu-*
15 *ant to this subsection.”; and*

16 *(B) by striking the third sentence and in-*
17 *serting “No fees of any kind shall be collected*
18 *from any persons who have a right of access for*
19 *hunting or fishing privileges under a specific*
20 *provision of law or treaty or who are engaged in*
21 *the conduct of official Federal, State, or local*
22 *government business.”;*

23 *(7) by striking paragraph (5) and inserting the*
24 *following:*

1 “(5) *The Secretary of the Interior and the Sec-*
2 *retary of Agriculture shall establish procedures pro-*
3 *viding for the issuance of a lifetime admission permit*
4 *to any citizen of, or person legally domiciled in, the*
5 *United States, if such citizen or person applies for*
6 *such permit and is permanently disabled. Such proce-*
7 *dures shall ensure that a lifetime admission permit*
8 *shall be issued only to persons who have been medi-*
9 *cally determined to be permanently disabled. A life-*
10 *time admission permit shall be nontransferable, shall*
11 *be issued without charge, and shall entitle the permit-*
12 *tee and one accompanying individual to general ad-*
13 *mission into any area designated pursuant to this*
14 *subsection, notwithstanding the method of travel.”;*

15 (8) *by striking paragraph (9) and by redesignat-*
16 *ing paragraph (10) as paragraph (9)”;*

17 (9) *by striking all but the last sentence of para-*
18 *graph (11) and redesignating paragraph (11) as*
19 *paragraph (10); and*

20 (10) *by redesignating paragraph (12) as para-*
21 *graph (11).*

22 (b) *RECREATION FEES.*—*Section 4 of the Land and*
23 *Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a)*
24 *is amended by striking subsection (b) and inserting the fol-*
25 *lowing:*

1 “(b) *RECREATION USE FEES.*—Each agency develop-
2 ing, administering, providing, or furnishing at Federal ex-
3 pense services for such activities as camping, including, but
4 not limited to, back country camping under permit, guard-
5 ed swimming sites, boat launch facilities, managed parking
6 lots, motorized recreation use and other recreation uses, is
7 authorized, in accordance with this section to provide for
8 the collection of recreation use fees at the place of use or
9 any reasonably convenient location. The administering Sec-
10 retary may establish both daily and annual recreation use
11 fees.”.

12 (c) *CRITERIA, POSTING AND UNIFORMITY OF FEES.*—
13 Section 4(d) of the Land and Water Conservation Fund Act
14 of 1965 (16 U.S.C. 460l–6a(d)) is amended in the first sen-
15 tence by striking “recreation fees charged by non-Federal
16 public agencies,” and inserting “fees charged by other pub-
17 lic and private entities,”.

18 (d) *PENALTY.*—Section 4(e) of the Land and Water
19 Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(e)) is
20 amended by striking “of not more than \$100.” and insert-
21 ing “as provided by law.”.

22 (e) *TECHNICAL AMENDMENTS.*—Section 4(h) of the
23 Land and Water Conservation Fund Act of 1965 (16 U.S.C.
24 460l–6a(h)) is amended—

1 (1) by striking “Bureau of Outdoor Recreation”
2 and inserting “National Park Service”;

3 (2) by striking “Natural Resources” and insert-
4 ing “Resources”; and

5 (3) by striking “Bureau” and inserting “Na-
6 tional Park Service”.

7 (f) *USE OF FEES*.—Section 4(i) of the Land and
8 Water Conservation Fund Act of 1965 (16 U.S.C. 460l-
9 6a(i)) is amended—

10 (1) in the first sentence of paragraph (1)(B) by
11 striking “fee collection costs for that fiscal year” and
12 inserting “fee collection costs for the immediately pre-
13 ceding fiscal year” and by striking “section in that
14 fiscal year” and inserting “section in such imme-
15 diately preceding fiscal year”;

16 (2) in the second sentence of subparagraph (B)
17 by striking “in that fiscal year”; and

18 (3) by striking paragraph (4) and inserting the
19 following:

20 “(4) Amounts covered into the special account for the
21 National Park Service shall be allocated among park system
22 units in accordance with subsection (j) for obligation or ex-
23 penditure by the Director of the National Park Service for
24 park operations.”.

1 (g) *TIME OF REIMBURSEMENT.*—Section 4(k) of the
2 *Land and Water Conservation Fund Act of 1965* (16 U.S.C.
3 460l–6a(k)) is amended by striking the last sentence.

4 (h) *COMMERCIAL TOUR USE FEES.*—Section 4(n) of
5 *the Land and Water Conservation Fund Act of 1965* (16
6 U.S.C. 460l–6a(n)) is amended—

7 (1) by striking the first sentence of paragraph
8 (1) and inserting “In the case of each unit of the Na-
9 tional Park System for which an admission fee is
10 charged under this section, the Secretary of the Inte-
11 rior shall establish, by October 1, 1996, a commercial
12 tour use fee in lieu of a per person admission fee to
13 be imposed on each vehicle entering the unit for the
14 purpose of providing commercial tour services within
15 the unit.”; and

16 (2) by striking the period at the end of para-
17 graph (3) and inserting “, with written notification
18 of such adjustments provided to commercial tour op-
19 erators 12 months in advance of implementation.”.

20 (i) *CONFORMING AMENDMENTS.*—

21 (1) *Title I of the Department of the Interior and*
22 *Related Agencies Appropriations Act, 1994*, is amend-
23 ed by striking the second proviso under the heading
24 “*ADMINISTRATIVE PROVISIONS*” under the heading

1 “*NATIONAL PARK SERVICE*” (related to recovery of
2 costs associated with special use permits).

3 (2) Section 3 of the Act entitled “An Act creat-
4 ing the Mount Rushmore National Memorial Commis-
5 sion and defining its purposes and powers”, approved
6 February 25, 1929 (45 Stat. 1300, chapter 315), is
7 amended by striking the last sentence.

8 (3) Section 5 of Public Law 87–657 (16 U.S.C.
9 459c–5), is amended by striking subsection (e).

10 (4) Section 3 of Public Law 87–750 (16 U.S.C.
11 398e) is amended by striking subsection (b).

12 (5) Section 4(e) of Public Law 92–589 (16
13 U.S.C. 460bb–3) is amended by striking the first sen-
14 tence.

15 (6) Section 6 of Public Law 95–348 (16 U.S.C.
16 410dd) is amended by striking subsection (j).

17 (7) Section 207 of Public Law 96–199 (16
18 U.S.C. 410ff–6) is repealed.

19 (8) Section 106 of Public Law 96–287 (16
20 U.S.C. 410gg–5) is amended by striking the last sen-
21 tence.

22 (9) Section 204 of Public Law 96–287 (94 Stat.
23 601) is amended by striking the last sentence.

24 (10) Section 5 of Public Law 96–428 (94 Stat.
25 1842; 16 U.S.C. 461 note) is repealed.

1 (11) *Public Law 100–55 (101 Stat. 371; U.S.C.*
2 *460l–6a note)* is repealed.

3 **SEC. 5452. COVERING OF INCREASED FEE REVENUES INTO**
4 **SPECIAL ACCOUNTS.**

5 *Of the funds deposited in special accounts in the Treas-*
6 *ury for the National Park Service, Bureau of Land Man-*
7 *agement, and Forest Service as set forth in section 4(i) of*
8 *the Land and Water Conservation Fund Act of 1965 (16*
9 *U.S.C. 460l–6a(i)), beginning in fiscal year 1997, 80 per-*
10 *cent of all receipts earned in the previous year in excess*
11 *of the following amounts for each covered agency shall be*
12 *made available to that agency without further appropria-*
13 *tion:*

14 (1) *National Park System:*

15 (A) *\$82,000,000 for fiscal year 1997.*

16 (B) *\$85,000,000 for fiscal year 1998.*

17 (C) *\$88,000,000 for fiscal year 1999.*

18 (D) *\$91,000,000 for fiscal year 2000.*

19 (E) *\$94,000,000 for fiscal year 2001.*

20 (F) *\$97,000,000 for fiscal year 2002.*

21 (G) *\$100,000,000 for fiscal year 2003.*

22 (H) *\$112,000,000 for fiscal year 2004.*

23 (I) *\$106,000,000 for fiscal year 2005.*

24 (2) *Bureau of Land Management:*

25 (A) *\$4,500,000 for fiscal year 1997.*

1 (B) \$5,000,000 for fiscal year 1998.

2 (C) \$5,000,000 for fiscal year 1999.

3 (D) \$5,000,000 for fiscal year 2000.

4 (E) \$5,000,000 for fiscal year 2001.

5 (F) \$5,000,000 for fiscal year 2002.

6 (G) \$5,000,000 for fiscal year 2003.

7 (H) \$5,000,000 for fiscal year 2004.

8 (I) \$5,000,000 for fiscal year 2005.

9 (3) *Forest Service:*

10 (A) \$20,000,000 for fiscal year 1997.

11 (B) \$20,600,000 for fiscal year 1998.

12 (C) \$21,200,000 for fiscal year 1999.

13 (D) \$21,900,000 for fiscal year 2000.

14 (E) \$22,500,000 for fiscal year 2001.

15 (F) \$23,600,000 for fiscal year 2002.

16 (G) \$24,300,000 for fiscal year 2003.

17 (H) \$25,000,000 for fiscal year 2004.

18 (I) \$25,800,000 for fiscal year 2005.

19 *Beginning in fiscal year 2006, and in each fiscal year*

20 *thereafter, the amounts set forth in this section for each cov-*

21 *ered agency in fiscal year 2005 shall be increased by 4 per-*

22 *cent per year, and 80 percent of all receipts earned in excess*

23 *of such amounts for each covered agency shall be made*

24 *available to that agency without further appropriation.*

1 **SEC. 5453. ALLOCATION AND USE OF FEES.**

2 (a) *ALLOCATION.*—Beginning in fiscal year 1997, re-
3 ceipts above the amounts stated in section 5452 in each cov-
4 ered agency’s special account from the previous fiscal year
5 shall be allocated as follows:

6 (1) *Seventy-five percent shall be allocated among*
7 *the units or areas of each affected agency in the same*
8 *proportion as fees collected pursuant to section 4 of*
9 *the Land and Water Conservation Fund Act of 1965*
10 *(16 U.S.C. 460l–6a) from a specific unit or area bear*
11 *to the total amount of such fees collected from all*
12 *units or areas of the same covered agency for each fis-*
13 *cal year.*

14 (2) *Twenty-five percent shall be allocated among*
15 *each covered agency’s units or areas on the basis of*
16 *need, as determined by the Secretary.*

17 (b) *USE.*—Expenditures from the special accounts
18 shall be used solely for infrastructure related to visitor use
19 and annual operating expenses related to visitor services
20 at units or areas of the covered agencies.

21 **CHAPTER 12—CONCESSION REFORM**

22 **SEC. 5461. SHORT TITLE.**

23 *This chapter may be cited as the “Visitor Facilities*
24 *and Services Enhancement Act of 1995”.*

25 **SEC. 5462. DEFINITIONS.**

26 *In this chapter:*

1 (1) “adjusted gross receipts” means gross receipts
2 less revenue derived from goods and services provided
3 on other than Federal lands or conveyed to units of
4 Government for hunting or fishing licenses or for en-
5 trance or recreation fees, or from such other exclusions
6 as the Secretary concerned might apply.

7 (2) “agency head” means the head of an agency
8 or his or her designated representative.

9 (3) “bidder” means a person who has submitted,
10 or may submit, a proposal respecting the facilities or
11 services, whether or not such bidder is the current
12 concessioner.

13 (4) “concessioner” means a person or other en-
14 tity acting under a concession authorization which
15 provides public services, facilities, or activities on
16 Federal lands pursuant to a concession service agree-
17 ment or concession license.

18 (5) “concession authorization” means a conces-
19 sion service agreement or concession license as appli-
20 cable.

21 (6) “concession license” means a written contract
22 between the agency head and the concessioner which
23 sets forth the terms and conditions under which the
24 concessioner is authorized to provide recreation serv-

1 *ices or activities on a limited basis as well as the*
2 *rights and obligations of the Federal Government.*

3 (7) “concession service agreement” means a writ-
4 *ten contract between the agency head and the conces-*
5 *sioner which sets forth the terms and conditions under*
6 *which the concessioner is authorized to provide visitor*
7 *services, facilities, or activities as well as the rights*
8 *and obligations of the Federal Government.*

9 (8) “Consumer Price Index” means the
10 *Consumer Price Index-All Urban Consumers pub-*
11 *lished by the Bureau of Labor Statistics of the De-*
12 *partment of Labor, and from and after such time as*
13 *such index is no longer published, the Consumer Price*
14 *Index or other regularly-published cost-of-living index*
15 *chosen by the Secretary concerned which reasonably*
16 *approximates the Consumer Price Index specified*
17 *above.*

18 (9) “gross receipts” means revenue from goods or
19 *services provided by concession services, facilities, or*
20 *activities on Federal lands and waters.*

21 (10) “performance incentive” means a credit
22 *based on past performance toward the score awarded*
23 *by the Secretary concerned to an incumbent conces-*
24 *sioner’s proposal submitted in response to a sollicita-*

1 *tion for the reissuance of such incumbent conces-*
2 *sioner's contract.*

3 (11) “proposal” means the complete submission
4 *for a concession service agreement offered in response*
5 *to the solicitation for such concession service agree-*
6 *ment.*

7 (12) “prospectus” means a document or docu-
8 *ments issued by the Secretary concerned and included*
9 *with a solicitation which sets forth the minimum re-*
10 *quirements for the award of a concession service*
11 *agreement.*

12 (13) “Secretary concerned” means —

13 (A) *the Secretary of the Interior with re-*
14 *spect to all concession authorizations issued by*
15 *the National Park Service, and all concession*
16 *authorizations for river runner, outfitter, or*
17 *guide concessions issued by the United States*
18 *Fish and Wildlife Service and the Bureau of*
19 *Land Management; and*

20 (B) *the Secretary of Agriculture with re-*
21 *spect to all river runner, outfitter, or guide con-*
22 *cessions issued by the Forest Service.*

23 (14) “selected bidder” means the bidder selected
24 *by the Secretary concerned for the award of a conces-*

1 *sion service agreement until such bidder becomes the*
2 *concessioner.*

3 (15) “solicitation” means a request by the Sec-
4 *retary concerned for proposals in response to a pro-*
5 *spectus.*

6 **SEC. 5463. NATURE AND TYPES OF CONCESSION AUTHOR-**
7 **IZATIONS.**

8 (a) *IN GENERAL.*—*The Secretary concerned may enter*
9 *into concession authorizations as follows:*

10 (1) *CONCESSION SERVICE AGREEMENT.*—*A con-*
11 *cession service agreement shall be entered into for all*
12 *concessions where the Secretary concerned determines*
13 *that the provision of concession services is in the in-*
14 *terest of the Federal Government and issues either a*
15 *competitive offering for concession services, facilities*
16 *or activities or a noncompetitive offering for such*
17 *services, facilities, or activities based on a finding*
18 *that due to special circumstances it is not in the pub-*
19 *lic interest of the United States to award a concession*
20 *service agreement on a competitive basis.*

21 (2) *CONCESSION LICENSE.*—*Whenever the Sec-*
22 *retary concerned makes a determination that public*
23 *enjoyment of Federal lands would be enhanced*
24 *through the provision of concession services for one-*
25 *time, intermittent, or infrequently scheduled activities*

1 (b) *SOLICITATION AND PROSPECTUS.*—Prior to mak-
2 ing a solicitation for a concession service agreement, the
3 Secretary concerned shall prepare a prospectus for such so-
4 licitation, shall publish notice of its availability at least
5 once in such local or national newspapers or trade publica-
6 tions as the Secretary determines appropriate, and shall
7 make such prospectus available upon request to all inter-
8 ested parties. The prospectus shall specify the minimum re-
9 quirements for such concession service agreement, including
10 but not limited to:

11 (1) a description of the services and facilities to
12 be provided by the concessioner.

13 (2) the level of capital investment required by the
14 concessioner (if any).

15 (3) terms and conditions of the concession service
16 agreement.

17 (4) minimum facilities and services to be pro-
18 vided by the Secretary concerned to the concessioner,
19 if any, including but not limited to public access,
20 utilities, buildings, and minimum public services.

21 (5) such other information related to the conces-
22 sion operation available to the Secretary concerned as
23 is not privileged or otherwise exempt from disclosure
24 under Federal law, as the Secretary determines is

1 *necessary to allow for the submission of competitive*
2 *proposals; and*

3 *(6) Local hiring preferences provisions, if appli-*
4 *cable, and notwithstanding any other provision of*
5 *law, to increase revenue to the United States by*
6 *avoiding additional transportation and related costs*
7 *associated with non-resident labor, each contract*
8 *awarded by the Department of the Interior for conces-*
9 *sioner or commercial use contractor-provided visitor*
10 *services performed in whole or in part of a State*
11 *which is not contiguous with another State and has*
12 *an unemployment rate in excess of the national aver-*
13 *age rate of unemployment, as determined by the Sec-*
14 *retary of Labor shall include a provision requiring*
15 *the concessioner or commercial use contractor to em-*
16 *ploy individuals who are residents of such State, and*
17 *who, in the case of any craft or trade, possess or*
18 *would be able to acquire promptly the necessary skills*
19 *for the purpose of performing that portion of the con-*
20 *tract in such State.*

21 *(7) Minimum fees to the United States.*

22 *(c) FACTORS AND MINIMUM STANDARDS IN DETER-*
23 *MINING BEST PROPOSAL.—The prospectus shall assign a*
24 *weight to each factor identified therein related to the impor-*
25 *tance of such factor in the selection process. Points shall*

1 *be awarded for each such factor, based on the relative*
2 *strength of the proposal concerning that factor. In selecting*
3 *the best proposal, the Secretary concerned shall take into*
4 *consideration (but shall not be limited to) the following, in-*
5 *cluding whether the proposal meets the minimum require-*
6 *ments (if any) of the Secretary for each of the following:*

7 (1) *Responsiveness to the prospectus.*

8 (2) *Quality of visitor services to be provided tak-*
9 *ing into account the nature of equipment and facili-*
10 *ties to be provided.*

11 (3) *Experience and performance in providing the*
12 *same or similar accommodations, facilities, or serv-*
13 *ices. This factor shall account for not less than 20*
14 *percent of the maximum points available under any*
15 *prospectus. Where the Secretary concerned determines*
16 *it to be warranted to provide for a high quality visi-*
17 *tor experience, the prospectus for a concession service*
18 *agreement shall provide greater weight to this factor*
19 *based on such aspects of the concession service agree-*
20 *ment as scope or size, complexity, nature of technical*
21 *skills required, and site-specific knowledge of the area.*
22 *The similarity of the qualifying experience outlined*
23 *in the proposal to the nature of the services required*
24 *under the concession service agreement and the length*

1 of such qualifying experience shall be the basis for
2 awarding points for this factor.

3 (4) *Record of resource protection (as appropriate*
4 *for services and activities with potential to impact*
5 *natural or cultural resources).*

6 (5) *Financial capability.*

7 (6) *Fees to the United States.*

8 (d) *SELECTION PROCESS.—The process for selecting*
9 *the best proposal shall consist of the following:*

10 (1) *First, the Secretary concerned shall identify*
11 *those proposals which meet the minimum standards*
12 *(if any) for the factors identified under subsection (c).*

13 (2) *Second, the Secretary concerned shall evalu-*
14 *ate all proposals identified under paragraph (1), con-*
15 *sidering all factors identified under subsection (c), as*
16 *well as performance incentives earned under sub-*
17 *section (e) and renewal penalties incurred under sub-*
18 *section (f).*

19 (3) *Third, the Secretary concerned shall offer the*
20 *concession service agreement to the best qualified ap-*
21 *plicant as determined by the evaluation under para-*
22 *graph (2). Prior to any such offer, the Secretary shall*
23 *certify that such applicant has adequate funds to pur-*
24 *chase any investment interest.*

25 (e) *PERFORMANCE INCENTIVES.—*

1 (1) *In evaluating the proposal of an incumbent*
2 *concessioner when the Secretary concerned issues a*
3 *prospectus for the renewal of the concession service*
4 *agreement, such concessioner is entitled to a perform-*
5 *ance incentive of—*

6 (A) *one percent of the maximum points*
7 *available under such prospectus for each year in*
8 *which the concessioner’s annual performance is*
9 *rated as exceeding the requirements outlined in*
10 *the prospectus or “good”, and*

11 (B) *a one-time 3-year merit term extension*
12 *upon a finding that a concessioner has been*
13 *rated as “good” in each annual performance*
14 *evaluation through the term of the concession*
15 *service agreement.*

16 (2) *A performance incentive awarded under*
17 *paragraph (1)(A) may not exceed 10 percent of the*
18 *maximum points available under such prospectus.*

19 (3) *The performance incentive specified under*
20 *paragraph (1)(A) may only be awarded to a conces-*
21 *sioner which meets the monetary definition of a small*
22 *business under section 3 of the Small Business Act*
23 *(15 U.S.C. 632). The Board of Contract Appeals*
24 *within each Department shall adjudicate disputes be-*

1 *tween the Federal Government and concessionaires re-*
2 *garding performance evaluations.*

3 *(f) RENEWAL PENALTY.—In evaluating the proposal*
4 *of an incumbent concessioner when the Secretary concerned*
5 *issues a prospectus for the renewal of the concession service*
6 *agreement, the incumbent concessioner shall be penalized*
7 *one percent of the maximum points available under such*
8 *prospectus for each year in which the concessioner’s annual*
9 *performance is found to be unsatisfactory.*

10 *(g) INAPPLICABILITY OF NEPA TO TEMPORARY EX-*
11 *TENSIONS AND SIMILAR REISSUANCE OF CONCESSIONS*
12 *AGREEMENTS.—The temporary extension of a concession*
13 *authorization, or reissuance of a concession authorization*
14 *to provide concession services similar in nature and amount*
15 *to concession services provided under the previous author-*
16 *ization, is hereby determined not to be a major Federal ac-*
17 *tion for the purposes of the National Environmental Policy*
18 *Act of 1969 (42 U.S.C. 4331 et. seq.).*

19 *(h) PROVISION FOR ADDITIONAL RELATED SERV-*
20 *ICES.—The Secretary concerned may modify the concession*
21 *service agreement to allow concessionaires to provide serv-*
22 *ices closely related to such agreement only if the Secretary*
23 *concerned determines that such changes would enhance the*
24 *safety or enjoyment of visitors and would not unduly re-*
25 *strict the award of future concession service agreements.*

1 **SEC. 5465. CAPITAL IMPROVEMENTS.**

2 (a) *IN GENERAL.*—*Concessionaires may construct or*
3 *finance construction under terms of section 5470 only such*
4 *public facilities on Federal lands as are to be used by the*
5 *concessioner under the terms of its concession service agree-*
6 *ment or facilities which are necessary for the concessioner*
7 *to administer such public facilities on Federal lands.*

8 (b) *INVESTMENT INTEREST.*—

9 (1) *IN GENERAL.*—*A concessioner that is re-*
10 *quired or authorized under a concession service agree-*
11 *ment pursuant to this subchapter to acquire or con-*
12 *struct any structure, improvement, or fixture pursu-*
13 *ant to such agreement on Federal lands shall have an*
14 *investment interest therein, as defined in this sub-*
15 *chapter. Any such investment interest shall consist of*
16 *all incidents of ownership, except legal title which*
17 *shall be vested in the Federal Government. Such in-*
18 *vestment interest shall not be extinguished by the ex-*
19 *piration of such agreement. Such investment interest*
20 *may be assigned, transferred, encumbered or relin-*
21 *quished.*

22 (2) *LIMITATION.*—*Such investment interest shall*
23 *not be construed to include or imply any authority,*
24 *privilege, or right to operate or engage in any busi-*
25 *ness or other activity, and the use of any improve-*
26 *ment in which the concessioner has an investment in-*

1 *terest shall be wholly subject to the applicable provi-*
2 *sions of the concession service agreement and of laws*
3 *and regulations relating to the area.*

4 (3) *FEDERAL PROPERTY.—Notwithstanding*
5 *paragraph (1), a concession service agreement may*
6 *specify that certain new structures, improvements, or*
7 *fixtures required to be constructed under terms of the*
8 *concession service agreement shall be property of the*
9 *Federal Government subject only to the right of the*
10 *concessioner to use such improvements during the*
11 *term of such agreement and that the concessioner*
12 *shall not be accorded an investment interest therein.*
13 *Concession service agreements shall not, to the extent*
14 *practicable, provide for a concessioner to obtain an*
15 *investment interest in any building or facilities whol-*
16 *ly owned by the Federal Government.*

17 (c) *SALE OF ASSETS.—If the existing concessioner is*
18 *not the selected bidder at the time of reissuance of a conces-*
19 *sion service agreement, the Secretary concerned shall re-*
20 *quire the new concessioner to buy the investment interest*
21 *of the existing concession. In the event that the successor*
22 *concessioner is unable to fully pay such investment interest,*
23 *any deficiency shall be paid by the Federal Government.*

24 (d) *CLOSURE OF CONCESSIONER FACILITIES.—If the*
25 *Secretary concerned determines that the public interest, by*

1 *reason of public and safety considerations or for other rea-*
2 *sons beyond the control of the concessioner, requires the dis-*
3 *continuation or closure of facilities in which the conces-*
4 *sioner has an investment interest, the Federal Government*
5 *shall compensate the concessioner in the amount equal to*
6 *the value of the investment interest.*

7 *(e) DETERMINATION OF VALUE OF INVESTMENT IN-*
8 *TEREST.—For purposes of this subchapter, the investment*
9 *interest of any capital improvement at the end of the con-*
10 *cession service agreement period shall be an amount equal*
11 *to the actual cost of construction or purchase of such invest-*
12 *ment interest or such capital improvement adjusted from*
13 *the time of completion of such construction by changes in*
14 *the Consumer Price Index less depreciation evidenced by the*
15 *condition and prospective serviceability in comparison with*
16 *a new unit of like kind. The Secretary concerned shall in-*
17 *clude the value to be paid by the selected bidder for any*
18 *existing investment interest in the prospectus for the related*
19 *concession service agreement.*

20 **SEC. 5466. DURATION OF CONCESSION AUTHORIZATION.**

21 *(a) CONCESSION SERVICE AGREEMENT.—The stand-*
22 *ard term of a concession service agreement shall be 10 years.*
23 *The Secretary concerned may issue a concession service*
24 *agreement for less than 10 years if the Secretary determines*
25 *that the average annual gross receipts over the life of the*

1 *concession service agreement would be less than \$100,000.*
2 *The Secretary concerned may not issue a concession service*
3 *agreement for less than 5 years. The Secretary concerned*
4 *shall issue a concession service agreement for longer than*
5 *10 years if the Secretary determines that such longer term*
6 *is in the public interest or necessary due to the extent of*
7 *investment and associated financing requirements and to*
8 *meet the obligations assumed. The term for a concession*
9 *service agreement may not exceed 30 years.*

10 (b) *CONCESSION LICENSE.*—*The term for a concession*
11 *license may not exceed 2 years.*

12 (c) *TEMPORARY EXTENSION.*—*The Secretary con-*
13 *cerned may agree to temporary extensions of concession*
14 *service agreements for up to 2 years on a noncompetitive*
15 *basis to avoid interruption of services to the public.*

16 ***SEC. 5467. RATES AND CHARGES TO THE PUBLIC.***

17 *In general, rates and charges to the public shall be set*
18 *by the concessioner. For concession service agreements only,*
19 *a concessioner's rates and charges to the public shall be sub-*
20 *ject to the approval of the Secretary concerned in those in-*
21 *stances where the Secretary determines that sufficient com-*
22 *petition for such facilities and services does not exist within*
23 *or in close proximity to the area in which the concessioner*
24 *operates. In those instances, the concession service agree-*
25 *ment shall state that the reasonableness of the concessioner's*

1 *rates and charges to the public shall be reviewed and ap-*
2 *proved by the Secretary concerned primarily by comparison*
3 *with those rates and charges for facilities and services of*
4 *comparable character under similar conditions, with due*
5 *consideration for length of season, seasonal variations, aver-*
6 *age percentage of occupancy, accessibility, availability and*
7 *costs of labor and materials, type of patronage, and other*
8 *factors deemed significant by the Secretary concerned. Such*
9 *review shall be completed within 90 days of receipt of all*
10 *necessary information, or the requirement for the Sec-*
11 *retary's approval shall be waived and such rates and*
12 *charges as proposed by the concessioner considered to be ap-*
13 *proved for immediate use.*

14 **SEC. 5468. TRANSFERABILITY OF CONCESSION AUTHORIZA-**
15 **TIONS.**

16 (a) *CONCESSION SERVICE AGREEMENTS.*—

17 (1) *APPROVAL REQUIRED.*—*A concession service*
18 *agreement is transferable or assignable only with the*
19 *approval of the Secretary concerned, which approval*
20 *may not be unreasonably withheld or delayed. The*
21 *Secretary may not approve any such transfer or as-*
22 *signment if the Secretary determines that the prospec-*
23 *tive concessioner is or is likely to be unable to com-*
24 *pletely satisfy all of the material requirements, term,*
25 *and conditions of the agreement or that the terms of*

1 (2) *The amount required for capital improve-*
2 *ments required pursuant to section 5465 (a).*

3 (3) *Fees for rental or lease of Government-owned*
4 *facilities or lands occupied by the concessioner.*

5 (4) *Expenditures for maintenance of or improve-*
6 *ments to Government-owned facilities occupied by the*
7 *concessioner.*

8 (b) *ESTABLISHMENT OF AMOUNT.—*

9 (1) *MINIMUM ACCEPTABLE FEE.—The Secretary*
10 *concerned shall establish a minimum fee for each ap-*
11 *licable category specified in paragraphs (1) through*
12 *(4) of subsection (a) which is acceptable to the Sec-*
13 *retary under this section and shall include the mini-*
14 *imum fee in the prospectus under section 5464. This*
15 *fee shall be based on historical data, where available,*
16 *as well as industry-specific and other market data*
17 *available to the Secretary concerned.*

18 (2) *FINAL FEE.—Except as provided in para-*
19 *graph (3), the final fee shall be the amount bid by the*
20 *selected applicant under section 5464.*

21 (3) *SUBSTANTIALLY SIMILAR SERVICES IN A SPE-*
22 *CIFIC GEOGRAPHIC AREA.—When the Secretary con-*
23 *cerned simultaneously offers authorizations for more*
24 *than one river runner, outfitter, or guide concession*
25 *operation to provide substantially similar services in*

1 *a defined geographic area, the concession fee for all*
2 *such concessionaires shall be specified by the Sec-*
3 *retary concerned in the prospectus. The Secretary*
4 *concerned shall base the fee on historical data, where*
5 *available, as well as on industry-specific and other*
6 *market data available to the Secretary concerned or*
7 *may establish a charge per user day.*

8 *(c) ADJUSTMENT OF FEES.—The amount of any fee*
9 *for the term of the concession service agreement shall be set*
10 *at the beginning of the concession authorization and may*
11 *only be modified if stated in the contract on the basis of*
12 *inflation, when the annual payment is not determined by*
13 *a percentage of adjusted gross receipts (as measured by*
14 *changes in the Consumer Price Index), to reflect substantial*
15 *changes from the conditions specified in the prospectus, or*
16 *in the event of an unforeseen disaster.*

17 *(d) CONCESSION LICENSE FEE.—The fee for a conces-*
18 *sion license shall at least cover the program administrative*
19 *costs and may not be changed over the term of the license.*

20 **SEC. 5470. DISPOSITION OF FEES.**

21 *(a) CONCESSION IMPROVEMENT ACCOUNT.—*

22 *(1) IN GENERAL.—The Secretary concerned shall,*
23 *whenever the concession service agreement requires or*
24 *authorizes the concessioner to perform maintenance or*
25 *make improvements to Government-owned facilities*

1 occupied by the concessioner, require the concessioner
2 to establish a concession improvement account. The
3 concessioner shall deposit into this account all funds
4 for maintenance of or improvements to Government-
5 owned facilities occupied by the concessioner;

6 (2) *TERMS AND CONDITIONS.*—The account shall
7 be maintained by the concessioner in an interest bear-
8 ing account in a Federally insured financial institu-
9 tion. The concessioner shall maintain the account sep-
10 arately from any other funds or accounts and shall
11 not commingle the money in the account with any
12 other money.

13 (3) *DISBURSEMENTS.*—The concessioner shall
14 make disbursements from the account for improve-
15 ments and other activities, only for capital improve-
16 ments or maintenance of improvements to Govern-
17 ment-owned facilities occupied by the concessioner as
18 specified in the concession service agreement.

19 (4) *TRANSFER OF REMAINING BALANCE.*—On the
20 termination of a concession authorization, or on the
21 transfer of a concession service agreement, any re-
22 maining balance in the account shall be transferred
23 by the concessioner to the successor concessioner, to be
24 used solely as set forth in this subsection. In the event
25 there is no successor concessioner, the account balance

1 *shall be deposited in the Treasury as miscellaneous*
2 *receipts.*

3 *(b) When the concessioner is required to make capital*
4 *improvements to other than Government-owned facilities oc-*
5 *cupied by the concessioner in accordance with a concession*
6 *service agreement, the concessioner shall have the option to*
7 *control and expend such funds directly.*

8 *(c) AMOUNTS RECEIVED RELATING TO PRIVILEGE OF*
9 *PROVIDING CONCESSION SERVICES AND RENTAL OF GOV-*
10 *ERNMENT-OWNED FACILITIES.—*

11 *(1) DEPOSIT INTO TREASURY.—The Secretary*
12 *concerned shall deposit in the Treasury of the United*
13 *States as miscellaneous receipts all funds not depos-*
14 *ited in concession improvement accounts or funds for*
15 *capital improvements specified in (b) above, includ-*
16 *ing specifically amounts received for a fiscal year for*
17 *the privilege of providing concession services and the*
18 *rental of Government-owned facilities, except that of*
19 *the amount of fees paid by vessel operators for the*
20 *privilege of entering into Glacier Bay, Alaska, 50 per-*
21 *cent of such fees for the 5-year period beginning on*
22 *the first full fiscal year following the date of enact-*
23 *ment of this subchapter shall be deposited into a spe-*
24 *cial account and that such funds shall be available*
25 *without further appropriation and may only be used*

1 *whether concession fees are being collected and expended in*
2 *accordance with this chapter and shall submit copies of each*
3 *audit to the Committee on Resources of the House of Rep-*
4 *resentatives and the Committee on Energy and Natural Re-*
5 *sources of the Senate.*

6 **SEC. 5471. REGULATIONS.**

7 *The Secretary concerned shall promulgate regulations*
8 *to implement this chapter no later than 2 years after the*
9 *date of enactment of this Act. Subsequent to the date of en-*
10 *actment of this chapter, no new concession authorization*
11 *may be issued, nor may any existing concession authoriza-*
12 *tion be amended or extended, unless such authorization,*
13 *amendment, or extension is fully consistent with sections*
14 *5465, 5469(c), and 5470.*

15 **SEC. 5472. RELATIONSHIP TO OTHER LAWS.**

16 (a) *REPEALS.—*

17 (1) *The Act entitled “An Act relating to the es-*
18 *tablishment of concession policies in the areas admin-*
19 *istered by the National Park Service and for other*
20 *purposes” (16 U.S.C. 20–20g) approved October 9,*
21 *1965, is repealed.*

22 (b) *SAVINGS.—*

23 (1) *IN GENERAL.—The repeal of any provision,*
24 *the superseding of any provision, and the amendment*
25 *of any provision, of an Act referred to in subsection*

1 (a) shall not affect the validity of any authorizations
2 entered into under any such Act. The provisions of
3 this chapter shall apply to any such authorizations,
4 except to the extent such provisions are inconsistent
5 with the express terms and conditions of such author-
6 izations.

7 (2) *RIGHT OF RENEWAL.*—The right of renewal
8 explicitly provided for by any concession contract
9 under any such provision shall be preserved for a sin-
10 gle renewal of a contract following the enactment of,
11 or concession authorization under, this chapter.

12 (3) *VALUE OF CAPITAL IMPROVEMENTS OR*
13 *POSSESSORY INTEREST.*—Nothing in this chapter
14 shall be construed to change the value as of the date
15 of enactment of this chapter for existing capital im-
16 provements or possessory interest as identified in con-
17 cession contracts entered into before the date of enact-
18 ment of this Act. Subsequent to enactment of this
19 chapter, the increase in value for any possessory in-
20 terest established under any concession contract in ef-
21 fect on the date of enactment of this chapter shall be
22 as provided for in this chapter unless otherwise spe-
23 cifically provided in the contract.

24 (4) *ANILCA.*—Nothing in this chapter shall be
25 construed to amend, supersede or otherwise affect any

1 *provision of the Alaska National Interest Lands Con-*
2 *servation Act (16 U.S.C. 3101 et seq.) relating to rev-*
3 *enue-producing visitor services.*

4 (5) *PROCEDURES FOR CONSIDERING EXISTING*
5 *CONCESSIONAIRES IN REISSUANCE OF CONTRACTS.—*

6 *In the case of a concession contract which has expired*
7 *prior to the date of the enactment of this Act, or with-*
8 *in 5 years after the date of the enactment of this Act,*
9 *an incumbent concessioner shall be entitled to a one-*
10 *time bonus of five percent of the maximum points*
11 *available in the reissuance of a previous concession*
12 *authorization. For any concession contract entered*
13 *into prior to the date of enactment of this Act, which*
14 *is projected to terminate 5 years or later after the*
15 *date of enactment of this Act, any concessioner shall*
16 *be entitled to a performance incentive in accordance*
17 *with this chapter. The concessioner shall be entitled to*
18 *an evaluation of “good” for each year in which the*
19 *Secretary concerned does not complete an evaluation*
20 *as provided for in this chapter.*

1 **TITLE VI—FEDERAL RETIRE-**
2 **MENT AND RELATED PROVI-**
3 **SIONS**

4 **Subtitle A—Civil Service and Postal**
5 **Service Provisions**

6 **SEC. 6001. EXTENSION OF DELAY IN COST-OF-LIVING AD-**
7 **JUSTMENTS IN FEDERAL EMPLOYEE RETIRE-**
8 **MENT BENEFITS THROUGH FISCAL YEAR 2002.**

9 *Section 11001(a) of the Omnibus Budget Reconcili-*
10 *ation Act of 1993 (Public Law 103–66; 107 Stat. 408) is*
11 *amended in the matter preceding paragraph (1) by striking*
12 *out “or 1996,” and inserting in lieu thereof “1996, 1997,*
13 *1998, 1999, 2000, 2001, or 2002,”.*

14 **SEC. 6002. INCREASED CONTRIBUTIONS TO FEDERAL CIVIL-**
15 **IAN RETIREMENT SYSTEMS.**

16 *(a) CIVIL SERVICE RETIREMENT SYSTEM.—*

17 *(1) DEDUCTIONS.—The first sentence of section*
18 *8334(a)(1) of title 5, United States Code, is amended*
19 *to read as follows: “The employing agency shall de-*
20 *duct and withhold from the basic pay of an employee,*
21 *Member, Congressional employee, law enforcement of-*
22 *ficer, firefighter, bankruptcy judge, judge of the Unit-*
23 *ed States Court of Appeals for the Armed Forces,*
24 *United States magistrate, or Claims Court judge, as*

1 *the case may be, the percentage of basic pay applica-*
2 *ble under subsection (c).”.*

3 (2) *AGENCY CONTRIBUTIONS.—*

4 (A) *INCREASE IN AGENCY CONTRIBUTIONS*
5 *DURING CALENDAR YEARS 1996 THROUGH 2002.—*

6 *Section 8334(a)(1) of title 5, United States Code*
7 *(as amended by this section) is further amend-*
8 *ed—*

9 (i) *by inserting “(A)” after “(1)”;* and

10 (ii) *by adding at the end thereof the*
11 *following new subparagraph:*

12 “(B)(i) *Notwithstanding subparagraph (A),*
13 *the agency contribution under the second sen-*
14 *tence of such subparagraph, during the period*
15 *beginning on January 1, 1996, through Decem-*
16 *ber 31, 2002—*

17 “(I) *for each employing agency (other*
18 *than the United States Postal Service or the*
19 *Washington Metropolitan Airport Author-*
20 *ity) shall be 8.51 percent of the basic pay*
21 *of an employee, Congressional employee,*
22 *and a Member of Congress, 9.01 percent of*
23 *the basic pay of a law enforcement officer,*
24 *a member of the Capitol Police, and a fire-*
25 *fighter, and 8.51 percent of the basic pay of*

1 a Claims Court judge, a United States mag-
2 istrate, a judge of the United States Court
3 of Appeals for the Armed Services, and a
4 bankruptcy judge, as the case may be; and

5 “(II) for the United States Postal Serv-
6 ice and the Washington Metropolitan Air-
7 port Authority shall be 7 percent of the
8 basic pay of an employee and 7.5 percent of
9 the basic pay of a law enforcement officer or
10 firefighter.”.

11 (B) *NO REDUCTION IN AGENCY CONTRIBU-*
12 *TIONS BY THE POSTAL SERVICE.*—Agency con-
13 tributions by the United States Postal Service
14 under section 8348(h) of title 5, United States
15 Code—

16 (i) shall not be reduced as a result of
17 the amendments made under paragraph (3)
18 of this subsection; and

19 (ii) shall be computed as though such
20 amendments had not been enacted.

21 (3) *INDIVIDUAL DEDUCTIONS, WITHHOLDINGS,*
22 *AND DEPOSITS.*—The table under section 8334(c) of
23 title 5, United States Code, is amended—

24 (A) in the matter relating to an employee
25 by striking out

“7 After December 31,
1969.”

1 *and inserting in lieu thereof the following:*

“7 January 1, 1970, to De-
cember 31, 1995.

7.25 ... January 1, 1996, to De-
cember 31, 1996.

7.4 January 1, 1997, to De-
cember 31, 1997.

7.5 January 1, 1998, to De-
cember 31, 2002.

7 After December 31,
2002.”;

2 *(B) in the matter relating to a Member or*
3 *employee for Congressional employee service by*
4 *striking out*

“7½ After December 31,
1969.”

5 *and inserting in lieu thereof the following:*

“7.5 January 1, 1970, to De-
cember 31, 1995.

7.25 ... January 1, 1996, to De-
cember 31, 1996.

7.4 January 1, 1997, to De-
cember 31, 1997.

7.5 January 1, 1998, to De-
cember 31, 2002.

7 After December 31,
2002.”;

6 *(C) in the matter relating to a Member for*
7 *Member service by striking out*

“8 After December 31,
1969.”

8 *and inserting in lieu thereof the following:*

“8 January 1, 1970, to De-
cember 31, 1995.

7.25 ... January 1, 1996, to De-
cember 31, 1996.

7.4 January 1, 1997, to De-
cember 31, 1997.

7.5 January 1, 1998, to De-
cember 31, 2002.

7 After December 31,
2002.”;

1 (D) in the matter relating to a law enforce-
 2 ment officer for law enforcement service and fire-
 3 fighter for firefighter service by striking out

“7^{1/2} After December 31,
 1974.”

4 and inserting in lieu thereof the following:

“7.5 January 1, 1975, to De-
 cember 31, 1995.

7.75 ... January 1, 1996, to De-
 cember 31, 1996.

7.9 January 1, 1997, to De-
 cember 31, 1997.

8 January 1, 1998, to De-
 cember 31, 2002.

7.5 After December 31,
 2002.”;

5 (E) in the matter relating to a bankruptcy
 6 judge by striking out

“8 After December 31,
 1983.”

7 and inserting in lieu thereof the following:

“8 January 1, 1984, to De-
 cember 31, 1995.

7.25 ... January 1, 1996, to De-
 cember 31, 1996.

7.4 January 1, 1997, to De-
 cember 31, 1997.

7.5 January 1, 1998, to De-
 cember 31, 2002.

7 After December 31,
 2002.”;

8 (F) in the matter relating to a judge of the
 9 United States Court of Appeals for the Armed
 10 Forces for service as a judge of that court by
 11 striking out

“8 On and after the date of
 the enactment of the
 Department of De-
 fense Authorization
 Act, 1984.”

12 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.*
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.”;*

1 *(G) in the matter relating to a United*
2 *States magistrate by striking out*

“8 *After September 30, 1987.”*

3 *and inserting in lieu thereof the following:*

“8 *October 1, 1987, 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.”;*

4 *(H) in the matter relating to a Claims*
5 *Court judge by striking out*

“8 *After September 30, 1988.”*

6 *and inserting in lieu thereof the following:*

“8 *October 1, 1988, 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.”;*

7 *and*

8 *(I) by inserting after the matter relating to*
9 *a Claims Court judge the following:*

“Member of the Capitol Police 2.5 *August 1, 1920, to June 30, 1926.*
3.5 *July 1, 1926, to June 30, 1942.*

5	<i>July 1, 1942, to June 30, 1948.</i>
6	<i>July 1, 1948, to October 31, 1956.</i>
6.5	<i>November 1, 1956, to December 31, 1969.</i>
7.5	<i>January 1, 1970, to December 31, 1995.</i>
7.75	<i>January 1, 1996, to December 31, 1996.</i>
7.9	<i>January 1, 1997, to December 31, 1997.</i>
8	<i>January 1, 1998, to December 31, 2002.</i>
7.5	<i>After December 31, 2002.”.</i>

1 (4) *OTHER SERVICE.*—

2 (A) *MILITARY SERVICE.*—Section 8334(j) of
3 title 5, *United States Code*, is amended—

4 (i) in paragraph (1)(A) by inserting
5 “and subject to paragraph (5),” after “Ex-
6 cept as provided in subparagraph (B),”;
7 and

8 (ii) by adding at the end thereof the
9 following new paragraph:

10 “(5) *Effective with respect to any period of military*
11 *service after December 31, 1995, the percentage of basic pay*
12 *under section 204 of title 37 payable under paragraph (1)*
13 *shall be equal to the same percentage as would be applicable*
14 *under section 8334(c) for that same period for service as*
15 *an employee, subject to paragraph (1)(B).”.*

16 (B) *VOLUNTEER SERVICE.*—Section 8334(l)
17 of title 5, *United States Code*, is amended—

18 (i) in paragraph (1) by adding at the
19 end thereof the following: “*This paragraph*
20 *shall be subject to paragraph (4).*”; and

1 (ii) by adding at the end thereof the
2 following new paragraph:

3 “(4) Effective with respect to any period of service
4 after December 31, 1995, the percentage of the readjustment
5 allowance or stipend (as the case may be) payable under
6 paragraph (1) shall be equal to the same percentage as
7 would be applicable under section 8334(c) for that same pe-
8 riod for service as an employee.”.

9 (b) *FEDERAL EMPLOYEES RETIREMENT SYSTEM.*—

10 (1) *INDIVIDUAL DEDUCTIONS AND*
11 *WITHHOLDINGS.*—

12 (A) *IN GENERAL.*—Section 8422(a) of title
13 5, United States Code, is amended by striking
14 out paragraph (2) and inserting in lieu thereof
15 the following:

16 “(2) The percentage to be deducted and withheld from
17 basic pay for any pay period shall be equal to—

18 “(A) the applicable percentage under paragraph
19 (3), minus

20 “(B) the percentage then in effect under section
21 3101(a) of the Internal Revenue Code of 1986 (relat-
22 ing to rate of tax for old-age, survivors, and disability
23 insurance).

24 “(3) The applicable percentage under this paragraph,
25 for civilian service shall be as follows:

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, member of the Capitol Police, 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.

1 *(B) MILITARY SERVICE.—Section 8422(e) of*
 2 *title 5, United States Code, is amended—*

3 *(i) in paragraph (1)(A) by inserting*
 4 *“and subject to paragraph (6),” after “Ex-*
 5 *cept as provided in subparagraph (B),”;*
 6 *and*

7 *(ii) by adding at the end thereof the*
 8 *following:*

9 *“(6) The percentage of basic pay under section*
 10 *204 of title 37 payable under paragraph (1), with re-*
 11 *spect to any period of military service performed dur-*
 12 *ing—*

13 *“(A) January 1, 1996, through December*
 14 *31, 1996, shall be 3.25 percent;*

1 “(B) January 1, 1997, through December
2 31, 1997, shall be 3.4 percent; and

3 “(C) January 1, 1998, through December
4 31, 2002, shall be 3.5 percent.”.

5 (C) VOLUNTEER SERVICE.—Section 8422(f)
6 of title 5, United States Code, is amended—

7 (i) in paragraph (1) by adding at the
8 end thereof the following: “This paragraph
9 shall be subject to paragraph (4).”; and

10 (ii) by adding at the end the following:

11 “(4) The percentage of the readjustment allow-
12 ance or stipend (as the case may be) payable under
13 paragraph (1), with respect to any period of volunteer
14 service performed during—

15 “(A) January 1, 1996, through December
16 31, 1996, shall be 3.25 percent;

17 “(B) January 1, 1997, through December
18 31, 1997, shall be 3.4 percent; and

19 “(C) January 1, 1998, through December
20 31, 2002, shall be 3.5 percent.”.

21 (2) NO REDUCTION IN AGENCY CONTRIBU-
22 TIONS.—Agency contributions under section 8423 (a)
23 and (b) of title 5, United States Code , shall not be
24 reduced as a result of the amendments made under
25 paragraph (1) of this subsection.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the first day of the first applica-*
 3 *ble pay period beginning on or after January 1, 1996.*

4 ***SEC. 6003. FEDERAL RETIREMENT PROVISIONS RELATING***
 5 ***TO MEMBERS OF CONGRESS AND CONGRES-***
 6 ***SIONAL EMPLOYEES.***

7 (a) *RELATING TO THE YEARS OF SERVICE AS A MEM-*
 8 *BER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR*
 9 *PURPOSES OF COMPUTING AN ANNUITY.*—

10 (1) *CSRS.*—*Section 8339 of title 5, United*
 11 *States Code, is amended—*

12 (A) *in subsection (a) by inserting “or Mem-*
 13 *ber” after “employee”; and*

14 (B) *by striking out subsections (b) and (c).*

15 (2) *FERS.*—*Section 8415 of title 5, United*
 16 *States Code, is amended—*

17 (A) *by striking out subsections (b) and (c);*

18 (B) *in subsections (a) and (g) by inserting*
 19 *“or Member” after “employee” each place it ap-*
 20 *pears; and*

21 (C) *in subsection (g)(2) by striking out*
 22 *“Congressional employee”.*

23 (b) *ACCRUAL RATE FOR MEMBER AND CONGRES-*
 24 *SIONAL EMPLOYEE SERVICE PERFORMED BUT NOT VESTED*
 25 *BEFORE EFFECTIVE DATE.*—

1 (1) *APPLICATION.*—*This subsection shall apply*
2 *to an individual who—*

3 (A) *is a Member of Congress or Congres-*
4 *sional employee on December 31, 1995;*

5 (B) *has performed less than 5 years of serv-*
6 *ice as a Member of Congress or Congressional*
7 *employee on December 31, 1995; and*

8 (C) *after December 31, 1995, completes 5*
9 *years of service as a Member of Congress or Con-*
10 *gressional employee, that includes a period of*
11 *service performed as a Member of Congress or*
12 *Congressional employee before January 1, 1996.*

13 (2) *COMPUTATION OF ANNUITY.*—*In computing*
14 *the annuity of an individual described under para-*
15 *graph (1)—*

16 (A) *any period of service as a Member of*
17 *Congress or Congressional employee performed*
18 *before January 1, 1996, shall be computed under*
19 *section 8339 or 8415 of title 5, United States*
20 *Code (as though the amendments under sub-*
21 *section (a) of this section were not enacted); and*

22 (B) *the 5 year service requirement under*
23 *subsections (b) and (c) of section 8339 or 8415*
24 *of such title (as in effect before the date of enact-*
25 *ment of this Act) shall be deemed fulfilled.*

1 (c) *CAPITOL POLICE*.—Section 8339(q) of title 5, Unit-
2 *ed States Code*, is amended by striking out “with subsection
3 (b), except that, in the case of a member who retires under
4 section 8335(d) or 8336(m), and who meets the require-
5 ments of subsection (b)(2),” and inserting in lieu thereof
6 “with subsection (a), except that in the case of a member
7 who retires under section 8335(d) or 8336(m), and who has
8 deductions withheld from his pay or has made deposit cov-
9 ering his last 5 years of civilian service,”.

10 (d) *ADMINISTRATIVE REGULATIONS*.—The Office of
11 *Personnel Management*, in consultation with the Secretary
12 *of the Senate and the Clerk of the House of Representatives*,
13 *may prescribe regulations to carry out the provisions of this*
14 *section and the amendments made by this section for appli-*
15 *cable employees and Members of Congress.*

16 (e) *EFFECTIVE DATES*.—

17 (1) *YEARS OF SERVICE; ANNUITY COMPUTA-*
18 *TION*.—

19 (A) *SERVICE AFTER EFFECTIVE DATE*.—The
20 *amendments made by subsection (a) shall take*
21 *effect on January 1, 1996, and shall apply only*
22 *with respect to the computation of an annuity*
23 *relating to—*

24 (i) *the service of a Member of Congress*
25 *as a Member or as a Congressional em-*

1 *ployee performed on or after January 1,*
2 *1996; and*

3 *(ii) the service of a Congressional em-*
4 *ployee as a Congressional employee per-*
5 *formed on or after January 1, 1996.*

6 *(B) SERVICE BEFORE EFFECTIVE DATE.—*
7 *An annuity shall be computed as though the*
8 *amendments made under subsection (a) had not*
9 *been enacted with respect to—*

10 *(i) the service of a Member of Congress*
11 *as a Member or a Congressional employee*
12 *or military service performed before Janu-*
13 *ary 1, 1996; and*

14 *(ii) the service of a Congressional em-*
15 *ployee as a Congressional employee or mili-*
16 *tary service performed before January 1,*
17 *1996.*

18 *(C) ALTERNATIVE EFFECTIVE DATE RELAT-*
19 *ING TO MEMBERS OF CONGRESS.—If a court of*
20 *competent jurisdiction makes a final determina-*
21 *tion that a provision of this paragraph violates*
22 *the 27th amendment of the United States Con-*
23 *stitution, the effective date and application dates*
24 *relating to Members of Congress shall be Janu-*
25 *ary 1, 1997.*

1 (2) *ADMINISTRATIVE PROVISIONS.*—*The provi-*
2 *sions of subsections (b), (c), and (d) shall take effect*
3 *on the date of the enactment of this Act.*

4 **SEC. 6004. ACCRUAL RATES RELATING TO CERTAIN JUDGES**
5 **WITH SIMILAR TREATMENT AS CONGRES-**
6 **SIONAL SERVICE.**

7 (a) *JUDGE OF THE UNITED STATES COURT OF MILI-*
8 *TARY APPEALS.*—*Section 8339(d)(7) of title 5, United*
9 *States Code, is amended by striking out “service.” and in-*
10 *serting in lieu thereof “service performed before January*
11 *1, 1996.”.*

12 (b) *CLAIMS COURT JUDGE, BANKRUPTCY JUDGE,*
13 *UNITED STATES MAGISTRATE.*—*Section 8339(n) of title 5,*
14 *United States Code, is amended by striking out “service.”*
15 *and inserting in lieu thereof “service performed before Jan-*
16 *uary 1, 1996. The annuity of any such employee is, with*
17 *respect to any service referred to in the preceding sentence*
18 *that is performed on or after January 1, 1996, computed*
19 *under subsection (a).”.*

20 **SEC. 6005. REPEAL OF AUTHORIZATION OF TRANSITIONAL**
21 **APPROPRIATIONS FOR THE UNITED STATES**
22 **POSTAL SERVICE.**

23 (a) *REPEAL.*—

24 (1) *IN GENERAL.*—*Section 2004 of title 39, Unit-*
25 *ed States Code, is repealed.*

1 (2) *TECHNICAL AND CONFORMING AMEND-*
2 *MENTS.—*

3 (A) *The table of sections for chapter 20 of*
4 *such title is amended by repealing the item relat-*
5 *ing to section 2004.*

6 (B) *Section 2003(e)(2) of such title is*
7 *amended by striking “sections 2401 and 2004”*
8 *each place it appears and inserting “section*
9 *2401”.*

10 (b) *CLARIFICATION THAT LIABILITIES FORMERLY*
11 *PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES*
12 *PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title*
13 *39, United States Code, is amended by adding at the end*
14 *the following:*

15 “(h) *Liabilities of the former Post Office Department*
16 *to the Employees’ Compensation Fund (appropriations for*
17 *which were authorized by former section 2004, as in effect*
18 *before the effective date of this subsection) shall be liabilities*
19 *of the Postal Service payable out of the Fund.”.*

20 (c) *EFFECTIVE DATE.—*

21 (1) *IN GENERAL.—This section and the amend-*
22 *ments made by this section shall be effective as of Oc-*
23 *tober 1, 1995.*

24 (2) *PROVISIONS RELATING TO PAYMENTS FOR*
25 *FISCAL YEAR 1996.—*

1 (A) *AMOUNTS NOT YET PAID.*—No payment
2 may be made to the Postal Service Fund, on or
3 after the date of the enactment of this Act, pur-
4 suant to any appropriation for fiscal year 1996
5 authorized by section 2004 of title 39, United
6 States Code (as in effect before the effective date
7 of this section).

8 (B) *AMOUNTS PAID.*—If any payment to the
9 Postal Service Fund is or has been made pursu-
10 ant to an appropriation for fiscal year 1996 au-
11 thorized by such section 2004, then an amount
12 equal to the amount of such payment shall be
13 paid from such Fund into the Treasury as mis-
14 cellaneous receipts.

15 ***Subtitle B—Patent and Trademark***
16 ***Fees***

17 ***SEC. 6011. PATENT AND TRADEMARK FEES.***

18 Section 10101 of the Omnibus Budget Reconciliation
19 Act of 1990 (35 U.S.C. 41 note) is amended—

20 (1) in subsection (a) by striking “1998” and in-
21 serting “2002”;

22 (2) in subsection (b)(2) by striking “1998” and
23 inserting “2002”; and

24 (3) in subsection (c)—

1 (A) by striking “through 1998” and insert-
2 ing “through 2002”; and

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

4 “(9) \$119,000,000 in fiscal year 1999.

5 “(10) \$119,000,000 in fiscal year 2000.

6 “(11) \$119,000,000 in fiscal year 2001.

7 “(12) \$119,000,000 in fiscal year 2002.”.

8 ***Subtitle C—GSA Property Sales***

9 ***SEC. 6021. SALE OF GOVERNORS ISLAND, NEW YORK.***

10 (a) *IN GENERAL.*—Notwithstanding any other provi-
11 sion of law, the Administrator of General Services shall dis-
12 pose of by sale at fair market value all rights, title, and
13 interests of the United States in and to the land of, and
14 improvements to, Governors Island, New York.

15 (b) *RIGHT OF FIRST REFUSAL.*—Before a sale is made
16 under subsection (a) to any other parties, the State of New
17 York and the city of New York shall be given the right of
18 first refusal to purchase all or part of Governors Island.
19 Such right may be exercised by either the State of New York
20 or the city of New York or by both parties acting jointly.

21 (c) *PROCEEDS.*—Proceeds from the disposal of Gov-
22 ernors Island under subsection (a) shall be deposited in the
23 general fund of the Treasury and credited as miscellaneous
24 receipts.

1 **SEC. 6022. SALE OF AIR RIGHTS.**

2 (a) *IN GENERAL.*—Notwithstanding any other provi-
3 sion of law, the Administrator of General Services shall sell,
4 at fair market value and in a manner to be determined
5 by the Administrator, the air rights adjacent to Washington
6 Union Station described in subsection (b), including air
7 rights conveyed to the Administrator under subsection (d).
8 The Administrator shall complete the sale by such date as
9 is necessary to ensure that the proceeds from the sale will
10 be deposited in accordance with subsection (c).

11 (b) *DESCRIPTION.*—The air rights referred to in sub-
12 section (a) total approximately 16.5 acres and are depicted
13 on the plat map of the District of Columbia as follows:

14 (1) *Part of lot 172, square 720.*

15 (2) *Part of lots 172 and 823, square 720.*

16 (3) *Part of lot 811, square 717.*

17 (c) *PROCEEDS.*—Before September 30, 1996, proceeds
18 from the sale of air rights under subsection (a) shall be de-
19 posited in the general fund of the Treasury and credited
20 as miscellaneous receipts.

21 (d) *CONVEYANCE OF AMTRAK AIR RIGHTS.*—

22 (1) *GENERAL RULE.*—As a condition of future
23 Federal financial assistance, Amtrak shall convey to
24 the Administrator of General Services on or before
25 December 31, 1995, at no charge, all of the air rights
26 of Amtrak described in subsection (b).

1 (2) *FAILURE TO COMPLY.*—If Amtrak does not
2 meet the condition established by paragraph (1), Am-
3 trak shall be prohibited from obligating Federal funds
4 after March 1, 1996.

5 **SEC. 6023. AVAILABILITY OF SURPLUS PROPERTY FOR**
6 **HOMELESS ASSISTANCE.**

7 (a) *REPEAL.*—(1) Title V of the Stewart B. McKinney
8 Homeless Assistance Act (42 U.S.C. 11411 et seq.) is re-
9 pealed.

10 (2) The table of contents in section 101(b) of that Act
11 is amended by striking the items relating to title V.

12 (3) This subsection shall be effective October 1, 1995.

13 (b) *AUTHORITY TO TRANSFER SURPLUS REAL PROP-*
14 *ERTY FOR HOUSING USE.*—Section 203 of the Federal
15 Property and Administrative Services Act of 1949 (40
16 U.S.C. 484) is amended by adding at the end the following:

17 “(r) Under such regulations as the Administrator may
18 prescribe, and in consultation with appropriate local gov-
19 ernmental authorities, the Administrator may transfer to
20 any nonprofit organization which exists for the primary
21 purpose of providing housing or housing assistance for
22 homeless individuals or families, such surplus real prop-
23 erty, including buildings, fixtures, and equipment situated
24 thereon, as is needed for housing use.

1 “(s)(1) Under such regulations as the Administrator
2 may prescribe, and in consultation with appropriate local
3 governmental authorities, the Administrator may transfer
4 to any non-profit organization which exists for the primary
5 purpose of providing housing or housing assistance for low-
6 income individuals or families such surplus real property,
7 including buildings, fixtures, and equipment situated there-
8 on, as is needed for housing use.

9 “(2) In making transfers under this subsection, the Ad-
10 ministrator shall take such actions, which may include
11 grant agreements with an organization receiving a grant,
12 as may be necessary to ensure that—

13 “(A) assistance provided under this subsection is
14 used to facilitate and encourage homeownership op-
15 portunities through the construction of self-help hous-
16 ing, under terms which require that the person receiv-
17 ing the assistance contribute a significant amount of
18 labor toward the construction; and

19 “(B) the dwellings constructed with property
20 transferred under this subsection shall be quality
21 dwellings that comply with local building and safety
22 codes and standards and shall be available at prices
23 below the prevailing market prices.”.

1 **TITLE VII—TRANSFORMATION**
 2 **OF THE MEDICAID PROGRAM**

3 **SEC. 7000. SHORT TITLE OF TITLE; TABLE OF CONTENTS OF**
 4 **TITLE.**

5 (a) *SHORT TITLE OF TITLE.*—This title may be cited
 6 as the “Medicaid Transformation Act of 1995”.

7 (b) *TABLE OF CONTENTS OF TITLE.*—The table of con-
 8 tents of this title is as follows:

Sec. 7000. Short title of title; table of contents of title.

Sec. 7001. Transformation of medicaid program.

Sec. 7002. Termination of current program and transition.

Sec. 7003. Medicare/MediGrant integration demonstration project.

9 **SEC. 7001. TRANSFORMATION OF MEDICAID PROGRAM.**

10 *The Social Security Act is amended by adding at the*
 11 *end the following new title:*

12 **“TITLE XXI—MEDIGRANT PROGRAM FOR LOW-**
 13 **INCOME INDIVIDUALS AND FAMILIES**

14 **“TABLE OF CONTENTS OF TITLE**

“Sec. 2100. Purpose; State MediGrant plans.

“PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

“Sec. 2101. Description of strategic objectives and performance goals.

“Sec. 2102. Annual reports.

“Sec. 2103. Periodic, independent evaluations.

“Sec. 2104. Description of process for MediGrant plan development.

“Sec. 2105. Consultation in MediGrant plan development.

“PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

“Sec. 2111. Eligibility and benefits.

“Sec. 2112. Set-asides of funds.

“Sec. 2113. Premiums and cost-sharing.

“Sec. 2114. Description of process for developing capitation payment rates.

“Sec. 2115. Preventing spousal impoverishment.

“Sec. 2116. State flexibility.

“PART C—PAYMENTS TO STATES

“Sec. 2121. Allotment of funds among States.

“Sec. 2122. *Payments to States.*

“Sec. 2123. *Limitation on use of funds; disallowance.*

“PART D—PROGRAM INTEGRITY AND QUALITY

“Sec. 2131. *Use of audits to achieve fiscal integrity.*

“Sec. 2132. *Fraud prevention program.*

“Sec. 2133. *Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.*

“Sec. 2134. *State MediGrant fraud control units.*

“Sec. 2135. *Recoveries from third parties and others.*

“Sec. 2136. *Assignment of rights of payment.*

“Sec. 2137. *Quality assurance requirements for nursing facilities.*

“Sec. 2138. *Other provisions promoting program integrity.*

“PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS

“Sec. 2151. *Submittal and approval of MediGrant plans.*

“Sec. 2152. *Submittal and approval of plan amendments.*

“Sec. 2153. *Process for State withdrawal from program.*

“Sec. 2154. *Sanctions for noncompliance.*

“Sec. 2155. *Secretarial authority.*

“PART F—GENERAL PROVISIONS

“Sec. 2171. *Definitions.*

“Sec. 2172. *Treatment of territories.*

“Sec. 2173. *Description of treatment of Indian Health Service facilities.*

“Sec. 2174. *Application of certain general provisions.*

“Sec. 2175. *MediGrant master drug rebate agreements.*

1 **“SEC. 2100. PURPOSE; STATE MEDIGRANT PLANS.**

2 “(a) *PURPOSE.*—*The purpose of this title is to provide*
 3 *block grants to States to enable them to provide medical*
 4 *assistance to low-income individuals and families in a more*
 5 *effective, efficient, and responsive manner.*

6 “(b) *STATE PLAN REQUIRED.*—*A State is not eligible*
 7 *for payment under section 2122 of this title unless the State*
 8 *has submitted to the Secretary under part E a plan (in*
 9 *this title referred to as a ‘MediGrant plan’) that—*

10 “(1) *sets forth how the State intends to use the*
 11 *funds provided under this title to provide medical as-*

1 *sistance to needy individuals and families consistent*
 2 *with the provisions of this title, and*

3 *“(2) is approved under such part.*

4 *“(c) CONTINUED APPROVAL.—An approved*
 5 *MediGrant plan shall continue in effect unless and until—*

6 *“(1) the State amends the plan under section*
 7 *2152,*

8 *“(2) the State terminates participation under*
 9 *this title under section 2153, or*

10 *“(3) the Secretary finds substantial noncompli-*
 11 *ance of the plan with the requirements of this title*
 12 *under section 2154.*

13 *“(d) STATE ENTITLEMENT.—This title constitutes*
 14 *budget authority in advance of appropriations Acts, and*
 15 *represents the obligation of the Federal Government to pro-*
 16 *vide for the payment to States of amounts provided under*
 17 *part C.*

18 *“PART A—OBJECTIVES, GOALS, AND PERFORMANCE*

19 *UNDER STATE PLANS*

20 ***“SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND***
 21 ***PERFORMANCE GOALS.***

22 *“(a) DESCRIPTION.—A MediGrant plan shall include*
 23 *a description of the strategic objectives and performance*
 24 *goals the State has established for providing health care*
 25 *services to low-income populations under this title, includ-*

1 *ing a general description of the manner in which the plan*
2 *is designed to meet these objectives and goals.*

3 “(b) *CERTAIN OBJECTIVES AND GOALS REQUIRED.—*
4 *A MediGrant plan shall include strategic objectives and*
5 *performance goals relating to rates of childhood immuniza-*
6 *tions and reductions in infant mortality and morbidity.*

7 “(c) *CONSIDERATIONS.—In specifying these objectives*
8 *and goals the State may consider factors such as the follow-*
9 *ing:*

10 “(1) *The State’s priorities with respect to pro-*
11 *viding assistance to low-income populations.*

12 “(2) *The State’s priorities with respect to the*
13 *general public health and the health status of individ-*
14 *uals eligible for assistance under the MediGrant plan.*

15 “(3) *The State’s financial resources, the particu-*
16 *lar economic conditions in the State, and relative*
17 *adequacy of the health care infrastructure in different*
18 *regions of the State.*

19 “(d) *PERFORMANCE MEASURES.—To the extent prac-*
20 *ticable—*

21 “(1) *one or more performance goals shall be es-*
22 *tablished by the State for each strategic objective iden-*
23 *tified in the MediGrant plan; and*

24 “(2) *the MediGrant plan shall describe, how pro-*
25 *gram performance will be—*

1 “(A) measured through objective, independ-
2 ently verifiable means, and

3 “(B) compared against performance goals,
4 in order to determine the State’s performance
5 under this title.

6 “(e) *PERIOD COVERED.*—

7 “(1) *STRATEGIC OBJECTIVES.*—The strategic ob-
8 jectives shall cover a period of not less than 5 years
9 and shall be updated and revised at least every 3
10 years.

11 “(2) *PERFORMANCE GOALS.*—The performance
12 goals shall be established for dates that are not more
13 than 3 years apart.

14 “**SEC. 2102. ANNUAL REPORTS.**

15 “(a) *IN GENERAL.*—In the case of a State with a
16 MediGrant plan that is in effect for part or all of a fiscal
17 year, no later than March 31 following such fiscal year (or
18 March 31, 1998, in the case of fiscal year 1996) the State
19 shall prepare and submit to the Secretary and the Congress
20 a report on program activities and performance under this
21 title for such fiscal year.

22 “(b) *CONTENTS.*—Each annual report under this sec-
23 tion for a fiscal year shall include the following:

24 “(1) *EXPENDITURE AND BENEFICIARY SUM-*
25 *MARY.*—

1 “(A) *INITIAL SUMMARY.*—*For the report for*
2 *fiscal year 1997 (and, if applicable, fiscal year*
3 *1996), a summary of all expenditures under the*
4 *MediGrant plan during the fiscal year (and dur-*
5 *ing any portions of fiscal year 1996 during*
6 *which the MediGrant plan was in effect under*
7 *this title) as follows:*

8 “(i) *Aggregate medical assistance ex-*
9 *penditures, disaggregated to the extent re-*
10 *quired to determine compliance with the*
11 *set-aside requirements of subsections (a)*
12 *through (d) of section 2112 and to compute*
13 *the case mix index under section*
14 *2121(d)(3).*

15 “(ii) *For each general category of eligi-*
16 *ble individuals (specified in subsection*
17 *(c)(1), aggregate medical assistance expend-*
18 *itures and the total and average number of*
19 *eligible individuals under the MediGrant*
20 *plan.*

21 “(iii) *By each general category of eligi-*
22 *ble individuals, total expenditures for each*
23 *of the categories of health care items and*
24 *services (specified in subsection (c)(2))*

1 *which are covered under the MediGrant*
2 *plan and provided on a fee-for-service basis.*

3 “(iv) *By each general category of eligi-*
4 *ble individuals, total expenditures for pay-*
5 *ments to capitated health care organizations*
6 *(as defined in section 2114(c)(1)).*

7 “(v) *Total administrative expenditures.*

8 “(B) *SUBSEQUENT SUMMARIES.—For re-*
9 *ports for each succeeding fiscal year, a summary*
10 *of—*

11 “(i) *all expenditures under the*
12 *MediGrant plan, and*

13 “(ii) *the total and average number of*
14 *eligible individuals under the MediGrant*
15 *plan for each general category of eligible in-*
16 *dividuals.*

17 “(2) *UTILIZATION SUMMARY.—*

18 “(A) *INITIAL SUMMARY.—For the report for*
19 *fiscal year 1997 (and, if applicable, fiscal year*
20 *1996), summary statistics on the utilization of*
21 *health care services under the MediGrant plan*
22 *during the year (and during any portions of fis-*
23 *cal year 1996 during which the MediGrant plan*
24 *was in effect under this title) as follows:*

1 “(i) For each general category of eligi-
2 ble individuals and for each of the cat-
3 egories of health care items and services
4 which are covered under the MediGrant
5 plan and provided on a fee-for-service basis,
6 the number and percentage of persons who
7 received such a type of service or item dur-
8 ing the period covered by the report.

9 “(ii) Summary of health care utiliza-
10 tion data reported to the State by capitated
11 health care organizations.

12 “(B) *SUBSEQUENT SUMMARIES.*—For re-
13 ports for each succeeding fiscal year, summary
14 statistics on the utilization of health care services
15 under the MediGrant plan.

16 “(3) *ACHIEVEMENT OF PERFORMANCE GOALS.*—
17 With respect to each performance goal established
18 under section 2101 and applicable to the year in-
19 volved—

20 “(A) a brief description of the goal;

21 “(B) a description of the methods to be used
22 to measure the attainment of such goal;

23 “(C) data on the actual performance with
24 respect to the goal;

1 “(D) a review of the extent to which the
2 goal was achieved, based on such data; and

3 “(E) if a performance goal has not been
4 met—

5 “(i) why the goal was not met, and

6 “(ii) actions to be taken in response to
7 such performance, including adjustments in
8 performance goals or program activities for
9 subsequent years.

10 “(4) PROGRAM EVALUATIONS.—A summary of
11 the findings of evaluations under section 2103 com-
12 pleted during the fiscal year covered by the report.

13 “(5) FRAUD AND ABUSE AND QUALITY CONTROL
14 ACTIVITIES.—A general description of the State’s ac-
15 tivities under part D to detect and deter fraud and
16 abuse and to assure quality of services provided under
17 the program.

18 “(6) PLAN ADMINISTRATION.—

19 “(A) A description of the administrative
20 roles and responsibilities of entities in the State
21 responsible for administration of this title.

22 “(B) Organizational charts for each entity
23 in the State primarily responsible for activities
24 under this title.

1 “(C) *A brief description of each interstate*
2 *compact (if any) the State has entered into with*
3 *other States with respect to activities under this*
4 *title.*

5 “(D) *General citations to the State statutes*
6 *and administrative rules governing the State’s*
7 *activities under this title.*

8 “(c) *DESCRIPTION OF CATEGORIES.—In this section:*

9 “(1) *GENERAL CATEGORIES OF ELIGIBLE INDI-*
10 *VIDUALS.—Each of the following is a general category*
11 *of eligible individuals:*

12 “(A) *Pregnant women.*

13 “(B) *Children.*

14 “(C) *Blind or disabled adults who are not*
15 *elderly individuals.*

16 “(D) *Elderly individuals.*

17 “(E) *Other adults.*

18 “(2) *CATEGORIES OF HEALTH CARE ITEMS AND*
19 *SERVICES.—The health care items and services de-*
20 *scribed in each paragraph of section 2171(a) shall be*
21 *considered a separate category of health care items*
22 *and services.*

23 **“SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.**

24 “(a) *IN GENERAL.—During fiscal year 1998 and every*
25 *third fiscal year thereafter, each State shall provide for an*

1 *section (c) to the Secretary under part E, a State shall pro-*
2 *vide—*

3 “(1) *public notice respecting the submittal of the*
4 *proposed plan or amendment, including a general de-*
5 *scription of the plan or amendment,*

6 “(2) *a means for the public to inspect or obtain*
7 *a copy (at reasonable charge) of the proposed plan or*
8 *amendment,*

9 “(3) *an opportunity for submittal and consider-*
10 *ation of public comments on the proposed plan or*
11 *amendment, and*

12 “(4) *for consultation with one or more advisory*
13 *committees established and maintained by the State.*

14 *The previous sentence shall not apply to a revision of a*
15 *MediGrant plan (or revision of an amendment to a plan)*
16 *made by a State under section 2154(c)(1) or to a plan*
17 *amendment withdrawal described in section 2154(c)(4).*

18 “(b) *CONTENTS OF NOTICE.—A notice under sub-*
19 *section (a)(1) for a proposed plan or amendment shall in-*
20 *clude a description of—*

21 “(1) *the general purpose of the proposed plan or*
22 *amendment (including applicable effective dates),*

23 “(2) *where the public may inspect the proposed*
24 *plan or amendment,*

1 “(3) *how the public may obtain a copy of the*
2 *proposed plan or amendment and the applicable*
3 *charge (if any) for the copy, and*

4 “(4) *how the public may submit comments on*
5 *the proposed plan or amendment, including any*
6 *deadlines applicable to consideration of such com-*
7 *ments.*

8 “(c) *AMENDMENTS DESCRIBED.—An amendment to a*
9 *MediGrant plan described in this subsection is an amend-*
10 *ment which makes a material and substantial change in*
11 *eligibility under the MediGrant plan or the benefits pro-*
12 *vided under the plan.*

13 “(d) *PUBLICATION.—Notices under this section may be*
14 *published (as selected by the State) in one or more daily*
15 *newspapers of general circulation in the State or in any*
16 *publication used by the State to publish State statutes or*
17 *rules.*

18 “(e) *COMPARABLE PROCESS.—A separate notice, or*
19 *notices, shall not be required under this section for a State*
20 *if notice of the MediGrant plan or an amendment to the*
21 *plan will be provided under a process specified in State*
22 *law that is substantially equivalent to the notice process*
23 *specified in this section.*

1 “PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

2 “SEC. 2111. ELIGIBILITY AND BENEFITS.

3 “(a) DESCRIPTION OF GENERAL ELIGIBILITY AND
4 BENEFITS.—Each MediGrant plan shall include a descrip-
5 tion (consistent with this title) of the following:

6 “(1) GENERAL ELIGIBILITY STANDARDS.—The
7 general eligibility standards of the plan for eligible
8 low-income individuals (including individuals de-
9 scribed in subsection (b)), including—

10 “(A) any limitations as to the duration of
11 eligibility,

12 “(B) any eligibility standards relating to
13 age, income and resources (including any stand-
14 ards relating to spenddowns and disposition of
15 resources), residency, disability status, immigra-
16 tion status, or employment status of individuals,

17 “(C) methods of establishing and continuing
18 eligibility and enrollment, including the meth-
19 odology for computing family income,

20 “(D) the eligibility standards in the plan
21 that protect the income and resources of a mar-
22 ried individual who is living in the community
23 and whose spouse is residing in an institution in
24 order to prevent the impoverishment of the com-
25 munity spouse, and

1 “(E) any other standards relating to eligi-
2 bility for medical assistance under the plan.

3 “(2) SCOPE OF ASSISTANCE.—The amount, du-
4 ration, and scope of health care services and items
5 covered under the plan, including differences among
6 different eligible population groups.

7 “(3) DELIVERY METHOD.—The State’s approach
8 to delivery of medical assistance, including a general
9 description of—

10 “(A) the use (or intended use) of vouchers,
11 fee-for-service, or managed care arrangements
12 (such as capitated health care plans, case man-
13 agement, and case coordination); and

14 “(B) utilization control systems.

15 “(4) FEE-FOR-SERVICE BENEFITS.—To the ex-
16 tent that medical assistance is furnished on a fee-for-
17 service basis—

18 “(A) how the State determines the qualifica-
19 tions of health care providers eligible to provide
20 such assistance; and

21 “(B) how the State determines rates of re-
22 imbursement for providing such assistance.

23 “(5) COST-SHARING.—Beneficiary cost-sharing
24 (if any), including variations in such cost-sharing by
25 population group or type of service and financial re-

1 *sponsibilities of parents of recipients who are children*
2 *and the spouses of recipients.*

3 “(6) *UTILIZATION INCENTIVES.*—*Incentives or*
4 *requirements (if any) to encourage the appropriate*
5 *utilization of services.*

6 “(7) *SUPPORT FOR CERTAIN HOSPITALS.*—

7 “(A) *IN GENERAL.*—*With respect to hos-*
8 *pitals described in subparagraph (B) located in*
9 *the State, a description of the extent to which*
10 *provisions are made for expenditures for items*
11 *and services furnished by such hospitals and cov-*
12 *ered under the MediGrant plan.*

13 “(B) *HOSPITALS DESCRIBED.*—*A hospital*
14 *described in this subparagraph is a short-term*
15 *acute care general hospital or a children’s hos-*
16 *pital, the low-income utilization rate of which*
17 *exceeds the lesser of—*

18 “(i) *1 standard deviation above the*
19 *mean low-income utilization rate for hos-*
20 *pitals receiving payments under a*
21 *MediGrant plan in the State in which such*
22 *hospital is located, or*

23 “(ii) *1¹/₄ standard deviations above the*
24 *mean low-income utilization rate for hos-*

1 *pitals receiving such payments in the 50*
2 *States and the District of Columbia.*

3 “(C) *LOW-INCOME UTILIZATION RATE.*—For
4 *purposes of subparagraph (B), the term ‘low-in-*
5 *come utilization rate’ means, for a hospital, a*
6 *fraction (expressed as a percentage), the numera-*
7 *tor of which is the hospital’s number of patient*
8 *days attributable to patients who (for such days)*
9 *were eligible for medical assistance under a*
10 *MediGrant plan or were uninsured in a period,*
11 *and the denominator of which is the total num-*
12 *ber of the hospital’s patient days in that period.*

13 “(D) *PATIENT DAYS.*—For purposes of sub-
14 *paragraph (C), the term ‘patient day’ includes*
15 *each day in which—*

16 “(i) *an individual, including a new-*
17 *born, is an inpatient in the hospital, wheth-*
18 *er or not the individual is in a specialized*
19 *ward and whether or not the individual re-*
20 *mains in the hospital for lack of suitable*
21 *placement elsewhere; or*

22 “(ii) *an individual makes one or more*
23 *outpatient visits to the hospital.*

24 “(b) *MANDATORY COVERAGE.*—Each MediGrant plan
25 *shall provide for making medical assistance available (sub-*

1 *ject to the eligibility standards described under the plan*
2 *pursuant to subsection (a)(1) and State flexibility of bene-*
3 *fits under section 2116) to—*

4 “(1) *any pregnant woman or child under the age*
5 *of 13 whose family income does not exceed the poverty*
6 *line applicable to a family of the size involved, and*

7 “(2) *any individual who is disabled, as defined*
8 *by the State.*

9 “(c) *IMMUNIZATIONS FOR CHILDREN.—The*
10 *MediGrant plan shall provide medical assistance for immu-*
11 *nizations for children eligible for any medical assistance*
12 *under the MediGrant plan, in accordance with a schedule*
13 *for immunizations established by the Health Department*
14 *of the State in consultation with the individuals and enti-*
15 *ties in the State responsible for the administration of the*
16 *plan.*

17 “(d) *FAMILY PLANNING SERVICES.—The MediGrant*
18 *plan shall provide pre-pregnancy planning services and sup-*
19 *plies as specified by the State.*

20 “(e) *PREEXISTING CONDITION EXCLUSIONS.—Not-*
21 *withstanding any other provision of this title—*

22 “(1) *a MediGrant plan may not deny or exclude*
23 *coverage of any item or service for an eligible individ-*
24 *ual for benefits under the MediGrant plan for such*

1 *item or service on the basis of a preexisting condition;*
2 *and*

3 *“(2) if a State contracts or makes other arrange-*
4 *ments (through the eligible individual or through an-*
5 *other entity) with a capitated health care organiza-*
6 *tion, insurer, or other entity, for the provision of*
7 *items or services to eligible individuals under the*
8 *MediGrant plan and the State permits such organiza-*
9 *tion, insurer, or other entity to exclude coverage of a*
10 *covered item or service on the basis of a preexisting*
11 *condition, the State shall provide, through its*
12 *MediGrant plan, for such coverage (through direct*
13 *payment or otherwise) for any such covered item or*
14 *service denied or excluded on the basis of a preexist-*
15 *ing condition.*

16 *“(f) FAMILY RESPONSIBILITY.—A MediGrant plan*
17 *may not require an adult child with a family income below*
18 *the State median income (as determined by the State) ap-*
19 *plicable to a family of the size involved to contribute to the*
20 *cost of covered nursing facility services and other long-term*
21 *care services for the child’s parent under the plan.*

22 *“(g) SOLVENCY STANDARDS FOR CAPITATED HEALTH*
23 *CARE ORGANIZATIONS.—*

24 *“(1) IN GENERAL.—A State may not contract*
25 *with a capitated health care organization, as defined*

1 *in section 2114(c)(1), for the provision of medical as-*
2 *sistance under a MediGrant plan under which the or-*
3 *ganization is—*

4 *“(A) at full financial risk, as defined by the*
5 *State, unless the organization meets solvency*
6 *standards established by the State for private*
7 *health maintenance organizations, or*

8 *“(B) is not at such risk, unless the organi-*
9 *zation meets solvency standards that are estab-*
10 *lished under the MediGrant plan.*

11 *“(2) TREATMENT OF PUBLIC ENTITIES.—Para-*
12 *graph (1) shall not apply to an organization that is*
13 *a public entity or if the solvency of such organization*
14 *is guaranteed by the State.*

15 *“(3) TRANSITION.—In the case of a capitated*
16 *health care organization that as of the date of the en-*
17 *actment of this title has entered into a contract with*
18 *a State for the provision of medical assistance under*
19 *title XIX under which the organization assumes full*
20 *financial risk and is receiving capitation payments,*
21 *paragraph (1) shall not apply to such organization*
22 *until 3 years after the date of the enactment of this*
23 *title.*

24 **“SEC. 2112. SET-ASIDES OF FUNDS.**

25 *“(a) FOR TARGETED LOW-INCOME FAMILIES.—*

1 “(1) *IN GENERAL.*—Subject to subsection (f), a
2 *MediGrant plan shall provide that the amount of*
3 *funds expended under the plan for medical assistance*
4 *for targeted low-income families (as defined in para-*
5 *graph (3)) for a fiscal year shall be not less than the*
6 *minimum low-income-family percentage specified in*
7 *paragraph (2) of the total funds expended under the*
8 *plan for all medical assistance for the fiscal year.*

9 “(2) *MINIMUM LOW-INCOME-FAMILY PERCENT-*
10 *AGE.*—*The minimum low-income-family percentage*
11 *specified in this paragraph for a State is equal to 85*
12 *percent of the average percentage of the expenditures*
13 *under title XIX for medical assistance in the State*
14 *during Federal fiscal years 1992 through 1994 which*
15 *were attributable to expenditures for medical assist-*
16 *ance for mandated benefits (as defined in subsection*
17 *(h)) furnished to individuals—*

18 “(A) *who (at the time of furnishing the as-*
19 *sistance) were under 65 years of age;*

20 “(B) *whose coverage (at such time) under a*
21 *State plan under title XIX was required under*
22 *Federal law; and*

23 “(C) *whose eligibility for such coverage (at*
24 *such time) was not on a basis directly related to*
25 *disability status, including being blind.*

1 “(3) *TARGETED LOW-INCOME FAMILY DE-*
2 *FINED.*—*In this subsection, the term ‘targeted low-in-*
3 *come family’ means a family (which may be an indi-*
4 *vidual)—*

5 “(A) *which includes a child or a pregnant*
6 *woman; and*

7 “(B) *the income of which does not exceed*
8 *185 percent of the poverty line applicable to a*
9 *family of the size involved.*

10 “(b) *FOR LOW-INCOME ELDERLY.*—

11 “(1) *SET-ASIDES.*—*Subject to subsection (f)—*

12 “(A) *GENERAL SET-ASIDE.*—*A MediGrant*
13 *plan shall provide that the amount of funds ex-*
14 *pended under the plan for medical assistance for*
15 *eligible low-income elderly individuals for a fis-*
16 *cal year shall be not less than the minimum low-*
17 *income-elderly percentage specified in paragraph*
18 *(2)(A) of the total funds expended under the plan*
19 *for all medical assistance for the fiscal year.*

20 “(B) *SET-ASIDE FOR MEDICARE PREMIUM*
21 *ASSISTANCE.*—*A MediGrant plan shall provide*
22 *that the amount of funds expended under the*
23 *plan for medical assistance for medicare cost-*
24 *sharing described in section 2171(c)(1) for a fis-*
25 *cal year shall be not less than the minimum*

1 *medicare premium assistance percentage speci-*
2 *fied in paragraph (2)(B) of the total funds ex-*
3 *pended under the plan for all medical assistance*
4 *for the fiscal year. The MediGrant plan shall*
5 *provide priority for such making such assistance*
6 *available for targeted low-income elderly individ-*
7 *uals (as defined in paragraph (3)).*

8 *“(2) MINIMUM PERCENTAGES.—*

9 *“(A) FOR GENERAL SET-ASIDE.—The mini-*
10 *imum low-income-elderly percentage specified in*
11 *this subparagraph for a State is equal to 85 per-*
12 *cent of the average percentage of the expenditures*
13 *under title XIX for medical assistance in the*
14 *State during Federal fiscal years 1992 through*
15 *1994 which was attributable to expenditures for*
16 *medical assistance for mandated benefits fur-*
17 *nished to individuals—*

18 *“(i) whose eligibility for such assist-*
19 *ance was based on their being 65 years of*
20 *age or older; and*

21 *“(ii)(I) whose coverage (at such time)*
22 *under a State plan under title XIX was re-*
23 *quired under Federal law, or (II) who (at*
24 *such time) were residents of a nursing facil-*
25 *ity.*

1 “(B) *FOR SET-ASIDE FOR MEDICARE PRE-*
2 *MIUM ASSISTANCE.*—*The minimum medicare*
3 *premium assistance percentage specified in this*
4 *subparagraph for a State is equal to 90 percent*
5 *of the average percentage of the expenditures*
6 *under title XIX for medical assistance in the*
7 *State during Federal fiscal years 1993 through*
8 *1995 which was attributable to expenditures for*
9 *medical assistance for medicare premiums de-*
10 *scribed in section 1905(p)(3)(A) for individuals*
11 *whose coverage (at such time) for such assistance*
12 *for such premiums under a State plan under*
13 *title XIX was required under Federal law.*

14 “(3) *TARGETED LOW-INCOME ELDERLY INDIVID-*
15 *UAL DEFINED.*—*In this subsection, the term ‘targeted*
16 *low-income elderly individual’ means an elderly indi-*
17 *vidual whose family income does not exceed 100 per-*
18 *cent of the poverty line applicable to a family of the*
19 *size involved.*

20 “(c) *FOR LOW-INCOME DISABLED PERSONS.*—

21 “(1) *IN GENERAL.*—*Subject to subsection (f), a*
22 *MediGrant plan shall provide that the percentage of*
23 *funds expended under the plan for medical assistance*
24 *for eligible low-income individuals who are not elder-*
25 *ly individuals and who are eligible for such assistance*

1 *on the basis of a disability, including being blind, for*
2 *a fiscal year is not less than the minimum low-in-*
3 *come-disabled percentage specified in paragraph (2)*
4 *of the total funds expended under the plan for medical*
5 *assistance for the fiscal year.*

6 *“(2) MINIMUM LOW-INCOME-DISABLED PERCENT-*
7 *AGE.—The minimum low-income-disabled percentage*
8 *specified in this paragraph for a State is equal to 85*
9 *percent of the average percentage of the expenditures*
10 *under title XIX for medical assistance in the State*
11 *during Federal fiscal years 1992 through 1994 which*
12 *was attributable to expenditures for medical assist-*
13 *ance for mandated benefits furnished to individuals—*

14 *“(A) whose coverage (at such time) under a*
15 *State plan under title XIX was required under*
16 *Federal law; and*

17 *“(B) whose coverage (at such time) was on*
18 *a basis directly related to disability status, in-*
19 *cluding being blind.*

20 *“(d) FOR SERVICES PROVIDED AT FEDERALLY QUALI-*
21 *FIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—*
22 *Subject to subsection (f), a MediGrant plan shall provide*
23 *that the amount of funds expended under the plan for medi-*
24 *cal assistance for services provided at rural health clinics*
25 *(as defined in section 1861(aa)(2)) and Federally-qualified*

1 *health centers (as defined in section 1861(aa)(4)), for eligi-*
2 *ble low-income individuals for a fiscal year is not less than*
3 *85 percent of the average annual expenditures under title*
4 *XIX for medical assistance in the State during Federal fis-*
5 *cal years 1992 through 1994 which were attributable to ex-*
6 *penditures for medical assistance for rural health clinic*
7 *services and Federally-qualified health center services (as*
8 *defined in section 1905(l)).*

9 “(e) *USE OF RESIDUAL FUNDS.*—

10 “(1) *IN GENERAL.*—Subject to limitations on
11 *payment under section 2123, any funds not required*
12 *to be expended under the set-asides under the previous*
13 *subsections may be expended under the MediGrant*
14 *plan for any of the following:*

15 “(A) *ADDITIONAL MEDICAL ASSISTANCE.*—
16 *Medical assistance for eligible low-income indi-*
17 *viduals (as defined in section 2171(b)), in addi-*
18 *tion to any medical assistance made available*
19 *under a previous subsection.*

20 “(B) *MEDICALLY-RELATED SERVICES.*—
21 *Payment for medically-related services (as de-*
22 *defined in paragraph (2)).*

23 “(C) *ADMINISTRATION.*—Payment for the
24 *administration of the MediGrant plan.*

1 “(2) *MEDICALLY-RELATED SERVICES DEFINED.*—
2 *In this title, the term ‘medically-related services’*
3 *means services reasonably related to, or in direct sup-*
4 *port of, the State’s attainment of one or more of the*
5 *strategic objectives and performance goals established*
6 *under section 2101, but does not include items and*
7 *services included on the list under section 2171(a) (re-*
8 *lating to the definition of medical assistance).*

9 “(f) *EXCEPTIONS TO MINIMUM SET-ASIDES.*—

10 “(1) *ALTERNATIVE MINIMUM SET-ASIDES.*—

11 “(A) *IN GENERAL.*—*A State may provide in*
12 *its MediGrant plan (through an amendment to*
13 *the plan) for a lower percentage of expenditures*
14 *than the minimum percentages specified in any*
15 *(or all) of paragraphs (2) of subsections (a), (b),*
16 *(c), and (d) if the State determines (and certifies*
17 *to the Secretary) that—*

18 “(i) *the health care needs of the low-in-*
19 *come populations described in paragraph*
20 *(1) of the subsections (a), (b), (c), or (d)*
21 *who are eligible for medical assistance*
22 *under the plan during the previous fiscal*
23 *year (or medicare premium assistance needs*
24 *described in subsection (b)(1)(B)) can be*
25 *reasonably met without the expenditure of*

1 the percentages otherwise required to be ex-
2 pended,

3 “(ii) the performance goals established
4 under section 2101 relating to the respective
5 population can reasonably be met with the
6 expenditure of such lower percentage of
7 funds, and

8 “(iii) in the case of subsection (d) with
9 respect to rural health clinic services and
10 Federally-qualified health center services,
11 the health care needs of eligible low-income
12 individuals residing in medically under-
13 served rural areas can reasonably be met
14 without the level of expenditure for such
15 services otherwise required and the perform-
16 ance goals established under section 2101
17 relating to such individuals can reasonably
18 be met with such lower level of expenditures.

19 “(B) *PERIOD OF APPLICATION.*—The deter-
20 mination and certification under subparagraph
21 (A) shall be made for such period as a State may
22 request, but may not be made for a period of
23 more than 3 consecutive Federal fiscal years (be-
24 ginning with the first fiscal year for which the
25 lower percentage is sought). A new determination

1 *and certification must be made under such*
2 *clause for any subsequent period.*

3 “(C) *NO EXCEPTION PERMITTED BEFORE*
4 *FISCAL YEAR 1998.—This paragraph may not*
5 *apply with respect to the percentages described*
6 *in paragraphs (2) of subsections (a), (b), and (c)*
7 *for a fiscal year before fiscal year 1998.*

8 “(2) *INDEPENDENT CERTIFICATION OF COMPLI-*
9 *ANCE WITH GOALS.—*

10 “(A) *IN GENERAL.—For purposes of section*
11 *2151(c), a MediGrant plan shall not be consid-*
12 *ered to be in substantial violation of the require-*
13 *ments of this section if the amount of actual*
14 *State expenditures specified in any (or all) of*
15 *paragraphs (1) of subsections (a), (b), (c), and*
16 *(d) is lower than the minimum percentages spec-*
17 *ified in any (or all) of paragraphs (2) of such*
18 *subsections if an independent actuary determines*
19 *and certifies to the State that the MediGrant*
20 *plan is reasonably designed to result in a level*
21 *of expenditures which is consistent with the re-*
22 *quirements of such subsections.*

23 “(B) *LIMIT ON VARIATION.—Subparagraph*
24 *(A) shall not apply in the case of a MediGrant*
25 *plan for which the actual State expenditures de-*

1 *scribed in any (or all) of paragraphs (1) of sub-*
2 *sections (a), (b), (c), and (d) are less than 95*
3 *percent of the expenditures which would be made*
4 *if the amount of State expenditures specified in*
5 *any (or all) of such paragraphs was equal to the*
6 *applicable minimum percentage specified in any*
7 *(or all) of paragraphs (2) of such subsections.*

8 “(g) *COMPUTATIONS.—States shall calculate the mini-*
9 *imum percentages under paragraphs (2) of subsections (a),*
10 *(b), (c), and (d) in a reasonable manner consistent with*
11 *reports submitted to the Secretary for the fiscal years in-*
12 *volved and medical assistance attributable to the exception*
13 *provided under section 1903(v)(2) shall not be considered*
14 *to be expenditures for medical assistance.*

15 “(h) *BENEFITS INCLUDED FOR PURPOSES OF COM-*
16 *PUTING SET-ASIDES.—In this section, the term ‘mandated*
17 *benefits’—*

18 “(1) *means medical assistance for items and*
19 *services described in section 1905(a) to the extent such*
20 *assistance with respect to such items and services was*
21 *required to be provided under title XIX,*

22 “(2) *includes medical assistance for medicare*
23 *cost-sharing only to the extent such assistance was re-*
24 *quired to be provided under section 1902(a)(10)(E),*
25 *and*

1 “(3) does not include medical assistance attrib-
2 utable to disproportionate share payment adjustments
3 described in section 1923.

4 **“SEC. 2113. PREMIUMS AND COST-SHARING.**

5 “(a) *IN GENERAL.*—Subject to subsection (b), if any
6 charges are imposed under the MediGrant plan for cost-
7 sharing (as defined in subsection (d)), such cost-sharing
8 shall be pursuant to a public cost-sharing schedule.

9 “(b) *LIMITATION ON PREMIUM AND CERTAIN COST-*
10 *SHARING FOR LOW-INCOME FAMILIES INCLUDING CHIL-*
11 *DREN OR PREGNANT WOMEN.*—

12 “(1) *IN GENERAL.*—In the case of a pregnant
13 woman or a child who is a member of a family de-
14 scribed in paragraph (2)—

15 “(A) the plan shall not impose any pre-
16 mium, and

17 “(B) the plan shall not (except as provided
18 in subsection (c)(1)) impose any cost-sharing
19 with respect to primary and preventive care
20 services (as defined by the State) covered under
21 the MediGrant plan for children or pregnant
22 women unless such cost-sharing is nominal in
23 nature.

1 “(2) *FAMILY DESCRIBED.*—A family described in
2 this paragraph is a family (which may be an indi-
3 vidual) which—

4 “(A) includes a child or a pregnant woman,

5 “(B) is made eligible for medical assistance
6 under the MediGrant plan, and

7 “(C) the income of which does not exceed
8 100 percent of the poverty line applicable to a
9 family of the size involved.

10 “(c) *CERTAIN COST-SHARING PERMITTED.*—Nothing
11 in this section shall be construed as preventing a MediGrant
12 plan (consistent with subsection (b))—

13 “(1) from imposing cost-sharing to discourage
14 the inappropriate use of emergency medical services
15 delivered through a hospital emergency room, a medi-
16 cal transportation provider, or otherwise,

17 “(2) from imposing premiums and cost-sharing
18 differentially in order to encourage the use of primary
19 and preventive care and discourage unnecessary or
20 less economical care,

21 “(3) from scaling cost-sharing in a manner that
22 reflects economic factors, employment status, and
23 family size,

1 “(A) to analyze and project health care ex-
2 penditures and utilization for individuals en-
3 rolled (or to be enrolled) in such an organization
4 under the MediGrant plan, and

5 “(B) to develop capitation payment rates,
6 including a brief description of the general meth-
7 odologies used by actuaries.

8 “(2) *QUALIFICATIONS OF ORGANIZATIONS.*—The
9 general qualifications, including any accreditation,
10 State licensure or certification, or provider network
11 standards, required by the State for participation of
12 capitated health care organizations under the
13 MediGrant plan.

14 “(3) *DISSEMINATION PROCESS.*—The process
15 used by the State under subsection (b) and otherwise
16 to disseminate, before entering into contracts with
17 capitated health care organizations, actuarial infor-
18 mation to such organizations on the historical fee-for-
19 service costs (or, if not available, other recent finan-
20 cial data associated with providing covered services)
21 and utilization associated with individuals described
22 in paragraph (1)(A).

23 “(b) *PUBLIC NOTICE AND COMMENT.*—Under the
24 MediGrant plan the State shall provide a process for pro-
25 viding, before the beginning of each contract year—

1 “(1) public notice of—

2 “(A) the amounts of the capitation pay-
3 ments (if any) made under the plan for the con-
4 tract year preceding the public notice, and

5 “(B)(i) the information described under
6 subsection (a)(1) with respect to capitation pay-
7 ments for the contract year involved, or (ii)
8 amounts of the capitation payments the State ex-
9 pects to make for the contract year involved,

10 unless such information is designated as proprietary
11 and not subject to public disclosure under State law,
12 and

13 “(2) an opportunity for receiving public com-
14 ment on the amounts and information for which no-
15 tice is provided under paragraph (1).

16 “(c) *DEFINITIONS.*—In this title:

17 “(1) *CAPITATED HEALTH CARE ORGANIZA-*
18 *TION.*—The term ‘capitated health care organization’
19 means a health maintenance organization or any
20 other entity (including a health insuring organiza-
21 tion, managed care organization, prepaid health
22 plan, integrated service network, or similar entity)
23 which under State law is permitted to accept capita-
24 tion payments for providing (or arranging for the
25 provision of) a group of items and services including

1 *at least inpatient hospital services and physicians’*
 2 *services.*

3 “(2) *CAPITATION PAYMENT.*—*The term ‘capita-*
 4 *tion payment’ means, with respect to payment, pay-*
 5 *ment on a prepaid capitation basis or any other risk*
 6 *basis to an entity for the entity’s provision (or ar-*
 7 *ranging for the provision) of a group of items and*
 8 *services, including at least inpatient hospital services*
 9 *and physicians’ services.*

10 **“SEC. 2115. PREVENTING SPOUSAL IMPOVERISHMENT.**

11 “(a) *SPECIAL TREATMENT FOR INSTITUTIONALIZED*
 12 *SPOUSES.*—

13 “(1) *SUPERSEDES OTHER PROVISIONS.*—*In de-*
 14 *termining the eligibility for medical assistance of an*
 15 *institutionalized spouse (as defined in subsection*
 16 *(h)(1)), the provisions of this section supersede any*
 17 *other provision of this title which is inconsistent with*
 18 *them.*

19 “(2) *DOES NOT AFFECT CERTAIN DETERMINA-*
 20 *TIONS.*—*Except as this section specifically provides,*
 21 *this section does not apply to—*

22 “(A) *the determination of what constitutes*
 23 *income or resources, or*

24 “(B) *the methodology and standards for de-*
 25 *termining and evaluating income and resources.*

1 “(3) *NO APPLICATION IN COMMONWEALTHS AND*
2 *TERRITORIES.—This section shall only apply to a*
3 *State that is one of the 50 States or the District of*
4 *Columbia.*

5 “(b) *RULES FOR TREATMENT OF INCOME.—*

6 “(1) *SEPARATE TREATMENT OF INCOME.—Dur-*
7 *ing any month in which an institutionalized spouse*
8 *is in the institution, except as provided in paragraph*
9 *(2), no income of the community spouse shall be*
10 *deemed available to the institutionalized spouse.*

11 “(2) *ATTRIBUTION OF INCOME.—In determining*
12 *the income of an institutionalized spouse or commu-*
13 *nity spouse for purposes of the post-eligibility income*
14 *determination described in subsection (d), except as*
15 *otherwise provided in this section and regardless of*
16 *any State laws relating to community property or the*
17 *division of marital property, the following rules*
18 *apply:*

19 “(A) *NON-TRUST PROPERTY.—Subject to*
20 *subparagraphs (C) and (D), in the case of in-*
21 *come not from a trust, unless the instrument*
22 *providing the income otherwise specifically pro-*
23 *vides—*

24 “(i) *if payment of income is made sole-*
25 *ly in the name of the institutionalized*

1 *spouse or the community spouse, the income*
2 *shall be considered available only to that re-*
3 *spective spouse,*

4 “(ii) if payment of income is made in
5 *the names of the institutionalized spouse*
6 *and the community spouse, $\frac{1}{2}$ of the income*
7 *shall be considered available to each of*
8 *them, and*

9 “(iii) if payment of income is made in
10 *the names of the institutionalized spouse or*
11 *the community spouse, or both, and to an-*
12 *other person or persons, the income shall be*
13 *considered available to each spouse in pro-*
14 *portion to the spouse’s interest (or, if pay-*
15 *ment is made with respect to both spouses*
16 *and no such interest is specified, $\frac{1}{2}$ of the*
17 *joint interest shall be considered available to*
18 *each spouse).*

19 “(B) *TRUST PROPERTY.—In the case of a*
20 *trust—*

21 “(i) *except as provided in clause (ii),*
22 *income shall be attributed in accordance*
23 *with the provisions of this title; and*

24 “(ii) *income shall be considered avail-*
25 *able to each spouse as provided in the trust,*

1 or, in the absence of a specific provision in
2 the trust—

3 “(I) if payment of income is made
4 solely to the institutionalized spouse or
5 the community spouse, the income shall
6 be considered available only to that re-
7 spective spouse,

8 “(II) if payment of income is
9 made to both the institutionalized
10 spouse and the community spouse, $\frac{1}{2}$
11 of the income shall be considered avail-
12 able to each of them, and

13 “(III) if payment of income is
14 made to the institutionalized spouse or
15 the community spouse, or both, and to
16 another person or persons, the income
17 shall be considered available to each
18 spouse in proportion to the spouse’s in-
19 terest (or, if payment is made with re-
20 spect to both spouses and no such in-
21 terest is specified, $\frac{1}{2}$ of the joint inter-
22 est shall be considered available to each
23 spouse).

24 “(C) *PROPERTY WITH NO INSTRUMENT.*—In
25 the case of income not from a trust in which

1 *there is no instrument establishing ownership,*
2 *subject to subparagraph (D), 1/2 of the income*
3 *shall be considered to be available to the institu-*
4 *tionalized spouse and 1/2 to the community*
5 *spouse.*

6 “(D) *REBUTTING OWNERSHIP.*—*The rules of*
7 *subparagraphs (A) and (C) are superseded to the*
8 *extent that an institutionalized spouse can estab-*
9 *lish, by a preponderance of the evidence, that the*
10 *ownership interests in income are other than as*
11 *provided under such subparagraphs.*

12 “(c) *RULES FOR TREATMENT OF RESOURCES.*—

13 “(1) *COMPUTATION OF SPOUSAL SHARE AT TIME*
14 *OF INSTITUTIONALIZATION.*—

15 “(A) *TOTAL JOINT RESOURCES.*—*There*
16 *shall be computed (as of the beginning of the first*
17 *continuous period of institutionalization of the*
18 *institutionalized spouse)—*

19 “(i) *the total value of the resources to*
20 *the extent either the institutionalized spouse*
21 *or the community spouse has an ownership*
22 *interest, and*

23 “(ii) *a spousal share which is equal to*
24 *1/2 of such total value.*

1 “(B) *ASSESSMENT.*—*At the request of an*
2 *institutionalized spouse or community spouse, at*
3 *the beginning of the first continuous period of*
4 *institutionalization of the institutionalized*
5 *spouse and upon the receipt of relevant docu-*
6 *mentation of resources, the State shall promptly*
7 *assess and document the total value described in*
8 *subparagraph (A)(i) and shall provide a copy of*
9 *such assessment and documentation to each*
10 *spouse and shall retain a copy of the assessment*
11 *for use under this section. If the request is not*
12 *part of an application for medical assistance*
13 *under this title, the State may, at its option as*
14 *a condition of providing the assessment, require*
15 *payment of a fee not exceeding the reasonable ex-*
16 *penditures of providing and documenting the assess-*
17 *ment. At the time of providing the copy of the*
18 *assessment, the State shall include a notice indi-*
19 *cating that the spouse will have a right to a fair*
20 *hearing under subsection (e)(2).*

21 “(2) *ATTRIBUTION OF RESOURCES AT TIME OF*
22 *INITIAL ELIGIBILITY DETERMINATION.*—*In determin-*
23 *ing the resources of an institutionalized spouse at the*
24 *time of application for medical assistance under this*

1 *title, regardless of any State laws relating to commu-*
2 *nity property or the division of marital property—*

3 *“(A) except as provided in subparagraph*
4 *(B), all the resources held by either the institu-*
5 *tionalized spouse, community spouse, or both,*
6 *shall be considered to be available to the institu-*
7 *tionalized spouse, and*

8 *“(B) resources shall be considered to be*
9 *available to an institutionalized spouse, but only*
10 *to the extent that the amount of such resources*
11 *exceeds the amount computed under subsection*
12 *(f)(2)(A) (as of the time of application for medi-*
13 *cal assistance).*

14 *“(3) ASSIGNMENT OF SUPPORT RIGHTS.—The*
15 *institutionalized spouse shall not be ineligible by rea-*
16 *son of resources determined under paragraph (2) to be*
17 *available for the cost of care where—*

18 *“(A) the institutionalized spouse has as-*
19 *signed to the State any rights to support from*
20 *the community spouse,*

21 *“(B) the institutionalized spouse lacks the*
22 *ability to execute an assignment due to physical*
23 *or mental impairment but the State has the*
24 *right to bring a support proceeding against a*
25 *community spouse without such assignment, or*

1 “(C) the State determines that denial of eli-
2 gibility would work an undue hardship.

3 “(4) SEPARATE TREATMENT OF RESOURCES
4 AFTER ELIGIBILITY FOR MEDICAL ASSISTANCE ESTAB-
5 LISHED.—During the continuous period in which an
6 institutionalized spouse is in an institution and after
7 the month in which an institutionalized spouse is de-
8 termined to be eligible for medical assistance under
9 this title, no resources of the community spouse shall
10 be deemed available to the institutionalized spouse.

11 “(5) RESOURCES DEFINED.—In this section, the
12 term ‘resources’ does not include—

13 “(A) resources excluded under subsection (a)
14 or (d) of section 1613, and

15 “(B) resources that would be excluded under
16 section 1613(a)(2)(A) but for the limitation on
17 total value described in such section.

18 “(d) PROTECTING INCOME FOR COMMUNITY
19 SPOUSE.—

20 “(1) ALLOWANCES TO BE OFFSET FROM INCOME
21 OF INSTITUTIONALIZED SPOUSE.—After an institu-
22 tionalized spouse is determined or redetermined to be
23 eligible for medical assistance, in determining the
24 amount of the spouse’s income that is to be applied
25 monthly to payment for the costs of care in the insti-

1 *tution, there shall be deducted from the spouse's*
2 *monthly income the following amounts in the follow-*
3 *ing order:*

4 *“(A) A personal needs allowance (described*
5 *in paragraph (2)(A)), in an amount not less*
6 *than the amount specified in paragraph (2)(C).*

7 *“(B) A community spouse monthly income*
8 *allowance (as defined in paragraph (3)), but*
9 *only to the extent income of the institutionalized*
10 *spouse is made available to (or for the benefit of)*
11 *the community spouse.*

12 *“(C) A family allowance, for each family*
13 *member, equal to at least $\frac{1}{3}$ of the amount by*
14 *which the amount described in paragraph*
15 *(4)(A)(i) exceeds the amount of the monthly in-*
16 *come of that family member.*

17 *“(D) Amounts for incurred expenses for*
18 *medical or remedial care for the institutionalized*
19 *spouse as provided under paragraph (6).*

20 *In subparagraph (C), the term ‘family member’ only*
21 *includes minor or dependent children, dependent par-*
22 *ents, or dependent siblings of the institutionalized or*
23 *community spouse who are residing with the commu-*
24 *nity spouse.*

25 *“(2) PERSONAL NEEDS ALLOWANCE.—*

1 “(A) *IN GENERAL.*—*The MediGrant plan*
2 *must provide that, in the case of an institu-*
3 *tionalized individual or couple described in sub-*
4 *paragraph (B), in determining the amount of the*
5 *individual’s or couple’s income to be applied*
6 *monthly to payment for the cost of care in an in-*
7 *stitution, there shall be deducted from the month-*
8 *ly income (in addition to other allowances other-*
9 *wise provided under the plan) a monthly per-*
10 *sonal needs allowance—*

11 “(i) *which is reasonable in amount for*
12 *clothing and other personal needs of the in-*
13 *dividual (or couple) while in an institution,*
14 *and*

15 “(ii) *which is not less (and may be*
16 *greater) than the minimum monthly per-*
17 *sonal needs allowance described in subpara-*
18 *graph (C).*

19 “(B) *INSTITUTIONALIZED INDIVIDUAL OR*
20 *COUPLE DEFINED.*—*In this paragraph, the term*
21 *‘institutionalized individual or couple’ means an*
22 *individual or married couple—*

23 “(i) *who is an inpatient (or who are*
24 *inpatients) in a medical institution or*
25 *nursing facility for which payments are*

1 *made under this title throughout a month,*
2 *and*

3 “(ii) *who is or are determined to be el-*
4 *igible for medical assistance under the State*
5 *MediGrant plan.*

6 “(C) *MINIMUM ALLOWANCE.—The mini-*
7 *imum monthly personal needs allowance de-*
8 *scribed in this subparagraph is \$40 for an insti-*
9 *tutionalized individual and \$80 for an institu-*
10 *tionalized couple (if both are aged, blind, or dis-*
11 *abled, and their incomes are considered available*
12 *to each other in determining eligibility).*

13 “(3) *COMMUNITY SPOUSE MONTHLY INCOME AL-*
14 *LOWANCE DEFINED.—*

15 “(A) *IN GENERAL.—In this section (except*
16 *as provided in subparagraph (B)), the commu-*
17 *nity spouse monthly income allowance for a*
18 *community spouse is an amount by which—*

19 “(i) *except as provided in subsection*
20 *(e), the minimum monthly maintenance*
21 *needs allowance (established under and in*
22 *accordance with paragraph (4)) for the*
23 *spouse, exceeds*

24 “(ii) *the amount of monthly income*
25 *otherwise available to the community spouse*

1 *(determined without regard to such an al-*
2 *lowance).*

3 “(B) *COURT ORDERED SUPPORT.—If a*
4 *court has entered an order against an institu-*
5 *tionalized spouse for monthly income for the sup-*
6 *port of the community spouse, the community*
7 *spouse monthly income allowance for the spouse*
8 *shall be not less than the amount of the monthly*
9 *income so ordered.*

10 “(4) *ESTABLISHMENT OF MINIMUM MONTHLY*
11 *MAINTENANCE NEEDS ALLOWANCE.—*

12 “(A) *IN GENERAL.—Each State shall estab-*
13 *lish a minimum monthly maintenance needs al-*
14 *lowance for each community spouse which, sub-*
15 *ject to subparagraph (B), is equal to or ex-*
16 *ceeds—*

17 “(i) *150 percent of $1/12$ of the poverty*
18 *line applicable to a family unit of 2 mem-*
19 *bers, plus*

20 “(ii) *an excess shelter allowance (as de-*
21 *finied in paragraph (4)).*

22 *A revision of the poverty line referred to in*
23 *clause (i) shall apply to medical assistance fur-*
24 *nished during and after the second calendar*

1 quarter that begins after the date of publication
2 of the revision.

3 “(B) *CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.*—The minimum
4 monthly maintenance needs allowance estab-
5 lished under subparagraph (A) may not exceed
6 \$1,500 (subject to adjustment under subsections
7 (e) and (g)).

9 “(5) *EXCESS SHELTER ALLOWANCE DEFINED.*—
10 In paragraph (4)(A)(ii), the term ‘excess shelter al-
11 lowance’ means, for a community spouse, the amount
12 by which the sum of—

13 “(A) the spouse’s expenses for rent or mort-
14 gage payment (including principal and interest),
15 taxes and insurance and, in the case of a con-
16 dominium or cooperative, required maintenance
17 charge, for the community spouse’s principal res-
18 idence, and

19 “(B) the standard utility allowance (used
20 by the State under section 5(e) of the Food
21 Stamp Act of 1977) or, if the State does not use
22 such an allowance, the spouse’s actual utility ex-
23 penses,

24 exceeds 30 percent of the amount described in para-
25 graph (4)(A)(i), except that, in the case of a con-

1 *dominium or cooperative, for which a maintenance*
2 *charge is included under subparagraph (A), any al-*
3 *lowance under subparagraph (B) shall be reduced to*
4 *the extent the maintenance charge includes utility ex-*
5 *penses.*

6 “(6) *TREATMENT OF INCURRED EXPENSES.—*
7 *With respect to the post-eligibility treatment of in-*
8 *come under this section, there shall be disregarded*
9 *reparation payments made by the Federal Republic of*
10 *Germany and, there shall be taken into account*
11 *amounts for incurred expenses for medical or reme-*
12 *dial care that are not subject to payment by a third*
13 *party, including—*

14 “(A) *medicare and other health insurance*
15 *premiums, deductibles, or coinsurance, and*

16 “(B) *necessary medical or remedial care*
17 *recognized under State law but not covered*
18 *under the State MediGrant plan under this title,*
19 *subject to reasonable limits the State may estab-*
20 *lish on the amount of these expenses.*

21 “(e) *NOTICE AND HEARING.—*

22 “(1) *NOTICE.—Upon—*

23 “(A) *a determination of eligibility for medi-*
24 *cal assistance of an institutionalized spouse, or*

1 “(B) a request by either the institutional-
2 ized spouse, or the community spouse, or a rep-
3 resentative acting on behalf of either spouse,
4 each State shall notify both spouses (in the case de-
5 scribed in subparagraph (A)) or the spouse making
6 the request (in the case described in subparagraph
7 (B)) of the amount of the community spouse monthly
8 income allowance (described in subsection (d)(1)(B)),
9 of the amount of any family allowances (described in
10 subsection (d)(1)(C)), of the method for computing the
11 amount of the community spouse resources allowance
12 permitted under subsection (f), and of the spouse’s
13 right to a hearing under the MediGrant plan respect-
14 ing ownership or availability of income or resources,
15 and the determination of the community spouse
16 monthly income or resource allowance.

17 “(2) RESULTS OF HEARING.—

18 “(A) REVISION OF MINIMUM MONTHLY
19 MAINTENANCE NEEDS ALLOWANCE.—If either
20 such spouse establishes in a hearing under this
21 subsection that the community spouse needs in-
22 come, above the level otherwise provided by the
23 minimum monthly maintenance needs allow-
24 ance, due to exceptional circumstances resulting
25 in significant financial duress, there shall be

1 *substituted, for the minimum monthly mainte-*
2 *nance needs allowance in subsection (d)(2)(A),*
3 *an amount adequate to provide such additional*
4 *income as is necessary.*

5 “(B) *REVISION OF COMMUNITY SPOUSE RE-*
6 *SOURCE ALLOWANCE.—If either such spouse es-*
7 *tablishes in such a hearing that the community*
8 *spouse resource allowance (in relation to the*
9 *amount of income generated by such an allow-*
10 *ance) is inadequate to raise the community*
11 *spouse’s income to the minimum monthly main-*
12 *tenance needs allowance, there shall be sub-*
13 *stituted, for the community spouse resource al-*
14 *lowance under subsection (f)(2), an amount ade-*
15 *quate to provide such a minimum monthly*
16 *maintenance needs allowance.*

17 “(f) *PERMITTING TRANSFER OF RESOURCES TO COM-*
18 *MUNITY SPOUSE.—*

19 “(1) *IN GENERAL.—An institutionalized spouse*
20 *may, without regard to any other provision of the*
21 *MediGrant plan to the contrary, transfer an amount*
22 *equal to the community spouse resource allowance (as*
23 *defined in paragraph (2)), but only to the extent the*
24 *resources of the institutionalized spouse are trans-*
25 *ferred to, or for the sole benefit of, the community*

1 spouse. The transfer under the preceding sentence
2 shall be made as soon as practicable after the date of
3 the initial determination of eligibility, taking into ac-
4 count such time as may be necessary to obtain a court
5 order under paragraph (3).

6 “(2) *COMMUNITY SPOUSE RESOURCE ALLOWANCE*
7 *DEFINED.*—In paragraph (1), the ‘community spouse
8 resource allowance’ for a community spouse is an
9 amount (if any) by which—

10 “(A) the greatest of—

11 “(i) \$12,000 (subject to adjustment
12 under subsection (g)), or, if greater (but not
13 to exceed the amount specified in clause
14 (ii)(II)) an amount specified under the
15 State MediGrant plan,

16 “(ii) the lesser of (I) the spousal share
17 computed under subsection (c)(1), or (II)
18 \$60,000 (subject to adjustment under sub-
19 section (g)), or

20 “(iii) the amount established under
21 subsection (e)(2);

22 exceeds

23 “(B) the amount of the resources otherwise
24 available to the community spouse (determined
25 without regard to such an allowance).

1 “(g) *INDEXING DOLLAR AMOUNTS.*—*For services fur-*
2 *nished during a calendar year after 1989, the dollar*
3 *amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and*
4 *(f)(2)(A)(ii)(II) shall be increased by the same percentage*
5 *as the percentage increase in the consumer price index for*
6 *all urban consumers (all items; U.S. city average) between*
7 *September 1988 and the September before the calendar year*
8 *involved.*

9 “(h) *DEFINITIONS.*—*In this section:*

10 “(1) *INSTITUTIONALIZED SPOUSE.*—*The term*
11 *‘institutionalized spouse’ means an individual—*

12 “(A)(i) *who is in a medical institution or*
13 *nursing facility, or*

14 “(ii) *at the option of the State (I) who*
15 *would be eligible under the MediGrant plan*
16 *under this title if such individual was in a med-*
17 *ical institution, (II) with respect to whom there*
18 *has been a determination that but for the provi-*
19 *sion of home or community-based services such*
20 *individual would require the level of care pro-*
21 *vided in a hospital, nursing facility or inter-*
22 *mediate care facility for the mentally retarded*
23 *the cost of which could be reimbursed under the*
24 *plan, and (III) who will receive home or commu-*
25 *nity-based services pursuant the plan; and*

1 “(B) is married to a spouse who is not in
2 a medical institution or nursing facility;
3 but does not include any such individual who is not
4 likely to meet the requirements of subparagraph (A)
5 for at least 30 consecutive days.

6 “(2) *COMMUNITY SPOUSE*.—The term ‘commu-
7 nity spouse’ means the spouse of an institutionalized
8 spouse.

9 **“SEC. 2116. STATE FLEXIBILITY.**

10 “(a) *STATE FLEXIBILITY IN BENEFITS, PROVIDER*
11 *PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELEC-*
12 *TION OF PROVIDERS*.—Nothing in this title (other than sub-
13 *sections (c) and (d) of section 2111) shall be construed as*
14 *requiring a State—*

15 “(1) *to provide medical assistance for any par-*
16 *ticular items or services,*

17 “(2) *to provide for any payments with respect to*
18 *any specific health care providers or any level of pay-*
19 *ments for any services,*

20 “(3) *to provide for the same medical assistance*
21 *in all geographical areas or political subdivisions of*
22 *the State, so long as medical assistance is made avail-*
23 *able in all such areas or subdivisions,*

24 “(4) *to provide that the medical assistance made*
25 *available to any individual eligible for medical assist-*

1 *ance must not be less in amount, duration, or scope*
2 *than the medical assistance made available to any*
3 *other such individual, or*

4 *“(5) to provide that any individual eligible for*
5 *medical assistance with respect to an item or service*
6 *may choose to obtain such assistance from any insti-*
7 *tution, agency, or person qualified to provide the item*
8 *or service.*

9 *“(b) STATE FLEXIBILITY WITH RESPECT TO MAN-*
10 *AGED CARE.—Nothing in this title shall be construed—*

11 *“(1) to limit a State’s ability to contract with,*
12 *on a capitated basis or otherwise, health care plans*
13 *or individual health care providers for the provision*
14 *or arrangement of medical assistance,*

15 *“(2) to limit a State’s ability to contract with*
16 *health care plans or other entities for case manage-*
17 *ment services or for coordination of medical assist-*
18 *ance, or*

19 *“(3) to restrict a State from establishing capita-*
20 *tion rates on the basis of competition among health*
21 *care plans or negotiations between the State and one*
22 *or more health care plans.*

23 *“PART C—PAYMENTS TO STATES*

24 ***“SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.***

25 *“(a) ALLOTMENTS.—*

1 “(1) *COMPUTATION.*—*The Secretary shall pro-*
2 *vide for the computation of State obligation and out-*
3 *lay allotments in accordance with this section for*
4 *each fiscal year beginning with fiscal year 1996.*

5 “(2) *LIMITATION ON OBLIGATIONS.*—

6 “(A) *IN GENERAL.*—*Subject to subpara-*
7 *graph (B), the Secretary shall not enter into ob-*
8 *ligations with any State under this title for a*
9 *fiscal year in excess of the obligation allotment*
10 *for that State for the fiscal year under para-*
11 *graph (4). The sum of such obligation allotments*
12 *for all States in any fiscal year (excluding*
13 *amounts carried over under subparagraph (B)*
14 *and excluding changes in allotments effected*
15 *under paragraph (4)(D)) shall not exceed the ag-*
16 *gregate limit on new obligation authority speci-*
17 *fied in paragraph (3) for that fiscal year.*

18 “(B) *ADJUSTMENTS.*—

19 “(i) *CARRYOVER OF ALLOTMENT PER-*
20 *MITTED.*—*If the amount of obligations en-*
21 *tered into under this part with a State for*
22 *quarters in a fiscal year is less than the*
23 *amount of the obligation allotment under*
24 *this section to the State for the fiscal year,*
25 *the amount of the difference shall be added*

1 to the amount of the State obligation allot-
2 ment otherwise provided under this section
3 for the succeeding fiscal year. This clause
4 shall be applied separately with respect to
5 the portion of the obligation allotment that
6 is attributable to the supplemental outlay
7 allotment under subsection (f).

8 “(ii) *REDUCTION FOR POST-ENACT-*
9 *MENT NEW OBLIGATIONS UNDER TITLE XIX*
10 *IN FISCAL YEAR 1996.*—The amount of the
11 obligation allotment otherwise provided
12 under this section for fiscal year 1996 for a
13 State shall be reduced by the amount of the
14 obligations entered into with respect to the
15 State under section 1903(a) after the date of
16 the enactment of this title.

17 “(C) *NO EFFECT ON PRIOR YEAR OBLIGA-*
18 *TIONS.*—Subparagraph (A) shall not apply to or
19 affect obligations for a fiscal year prior to fiscal
20 year 1996.

21 “(D) *OBLIGATION.*—For purposes of this
22 section, the Secretary’s establishment of an esti-
23 mate under section 2123(b) of the amount a
24 State is entitled to receive for a quarter (taking
25 into account any adjustments described in such

1 subsection) shall be treated as the obligation of
2 such amount for the State as of the first day of
3 the quarter.

4 “(3) *AGGREGATE LIMIT ON NEW OBLIGATION AU-*
5 *THORITY.*—

6 “(A) *IN GENERAL.*—*For purposes of this*
7 *subsection, subject to subparagraph (C), the ‘ag-*
8 *gregate limit on new obligation authority’, for a*
9 *fiscal year, is the pool amount under subsection*
10 *(b) for the fiscal year, divided by the payout ad-*
11 *justment factor (described in subparagraph (B))*
12 *for the fiscal year.*

13 “(B) *PAYOUT ADJUSTMENT FACTOR.*—*For*
14 *purposes of this subsection, the ‘payout adjust-*
15 *ment factor’—*

16 “(i) *for fiscal year 1996 is 0.950,*

17 “(ii) *for fiscal year 1997 is 0.986, and*

18 “(iii) *for a subsequent fiscal year is*
19 *0.998.*

20 “(C) *TRANSITIONAL ADJUSTMENT FOR PRE-*
21 *ENACTMENT-OBLIGATION OUTLAYS.*—*In order to*
22 *account for pre-enactment-obligation outlays de-*
23 *scribed in paragraph (4)(C)(iv), in determining*
24 *the aggregate limit on new obligation authority*

1 under subparagraph (A) for fiscal year 1996, the
2 pool amount for such fiscal year is equal to—

3 “(i) the pool amount for such year, re-
4 duced by

5 “(ii) \$24,624,000,000.

6 “(4) OBLIGATION ALLOTMENTS.—

7 “(A) GENERAL RULE FOR 50 STATES AND
8 THE DISTRICT OF COLUMBIA.—Except as pro-
9 vided in this paragraph, the ‘obligation allot-
10 ment’ for any of the 50 States or the District of
11 Columbia for a fiscal year (beginning with fiscal
12 year 1997) is an amount that bears the same
13 ratio to the outlay allotment under subsection
14 (c)(2) for such State or District (not taking into
15 account any adjustment due to an election under
16 paragraph (4)) for the fiscal year as the ratio
17 of—

18 “(i) the aggregate limit on new obliga-
19 tion authority (less the total of the obliga-
20 tion allotments under subparagraph (B))
21 for the fiscal year, to

22 “(ii) the pool amount (less the sum of
23 the outlay allotments for the territories) for
24 such fiscal year.

1 “(B) *TERRITORIES.*—*The obligation allot-*
2 *ment for each of the Commonwealths and terri-*
3 *ories for a fiscal year is the outlay allotment for*
4 *such Commonwealth or territory (as determined*
5 *under subsection (c)(5)) for the fiscal year di-*
6 *vided by the payout adjustment factor for the fis-*
7 *cal year (as defined in paragraph (3)(B)).*

8 “(C) *TRANSITIONAL RULE FOR FISCAL YEAR*
9 *1996.*—

10 “(i) *IN GENERAL.*—*The obligation*
11 *amount for fiscal year 1996 for any State*
12 *(including the District of Columbia, a Com-*
13 *monwealth, or territory) is determined ac-*
14 *ording to the formula: $A=(B-C)/D$,*
15 *where—*

16 “(I) ‘A’ *is the obligation amount*
17 *for such State,*

18 “(II) ‘B’ *is the outlay allotment of*
19 *such State for fiscal year 1996, as de-*
20 *termined under subsection (c),*

21 “(III) ‘C’ *is the amount of the*
22 *pre-enactment-obligation outlays (as*
23 *established for such State under clause*
24 *(ii)), and*

1 “(IV) ‘D’ is the payout adjust-
2 ment factor for such fiscal year (as de-
3 fined in paragraph (3)(B)).

4 “(ii) *PRE-ENACTMENT-OBLIGATION*
5 *OUTLAY AMOUNTS.*—*Within 30 days after*
6 *the date of the enactment of this title, the*
7 *Secretary shall estimate (based on the best*
8 *data available) and publish in the Federal*
9 *Register the amount of the pre-enactment-*
10 *obligation outlays (as defined in clause (iv))*
11 *for each State (including the District of Co-*
12 *lumbia, Commonwealths, and territories).*
13 *The total of such amounts shall equal the*
14 *dollar amount specified in paragraph*
15 *(3)(C)(ii).*

16 “(iii) *AGREEMENT.*—*The submission of*
17 *a MediGrant plan by a State under this*
18 *title is deemed to constitute the State’s ac-*
19 *ceptance of the obligation allotment limita-*
20 *tions under this subsection, including the*
21 *formula for computing the amount of such*
22 *obligation allotment.*

23 “(iv) *PRE-ENACTMENT-OBLIGATION*
24 *OUTLAYS DEFINED.*—*In this subsection, the*
25 *term ‘pre-enactment-obligation outlays’*

1 *means, for a State, the outlays of the Fed-*
2 *eral Government that result from obliga-*
3 *tions that have been incurred under title*
4 *XIX with respect to the State before the date*
5 *of the enactment of this title, but for which*
6 *payments to States have not been made as*
7 *of such date of enactment.*

8 “(D) *ADJUSTMENT TO REFLECT ADOPTION*
9 *OF ALTERNATIVE GROWTH FORMULA.—Any State*
10 *that has elected an alternative growth formula*
11 *under subsection (c)(4) which increases or de-*
12 *creases the dollar amount of an outlay allotment*
13 *for a fiscal year is deemed to have increased or*
14 *decreased, respectively, its obligation amount for*
15 *such fiscal year by the amount of such increase*
16 *or decrease.*

17 “(E) *TRANSITIONAL CORRECTION FOR FIS-*
18 *CAL YEAR 1997.—*

19 “(i) *IN GENERAL.—The obligation*
20 *amount for fiscal year 1997 for any State*
21 *described in clause (ii) shall be increased by*
22 *90 percent of the amount by which 90 per-*
23 *cent of the amount described in clause*
24 *(ii)(I) exceeds the amount described in*
25 *clause (ii)(II), divided by the payout ad-*

1 *justment factor specified in paragraph*
2 *(3)(B) for fiscal year 1996. The increase*
3 *under this clause shall be paid to a State in*
4 *the first quarter of fiscal year 1997.*

5 “(i) *STATES DESCRIBED.*—*A State de-*
6 *scribed in this clause is a State for which—*

7 “(I) *the amount of the pre-enact-*
8 *ment-obligation outlays (as established*
9 *for such State under subparagraph*
10 *(C)(ii)), exceeded*

11 “(II) *the outlays of the Federal*
12 *Government during fiscal year 1996*
13 *that are attributable to obligations that*
14 *were incurred under title XIX with re-*
15 *spect to the State before the date of the*
16 *enactment of this title, but for which*
17 *payments to States had not been made*
18 *as of such date of enactment,*

19 *by at least 10 percent of the amount de-*
20 *scribed in subclause (I).*

21 “(b) *POOL OF AVAILABLE FUNDS.*—

22 “(1) *IN GENERAL.*—*For purposes of this section,*
23 *the ‘pool amount’ under this subsection for—*

24 “(A) *fiscal year 1996 is \$96,386,037,894,*

25 “(B) *fiscal year 1997 is \$103,233,603,164,*

1 “(C) fiscal year 1998 is \$107,907,625,827,

2 “(D) fiscal year 1999 is \$112,644,040,408,

3 “(E) fiscal year 2000 is \$117,359,685,046,

4 “(F) fiscal year 2001 is \$122,284,072,525,

5 “(G) fiscal year 2002 is \$127,418,239,580,

6 and

7 “(H) each subsequent fiscal year is the pool
8 amount under this paragraph for the previous
9 fiscal year increased by the lesser of 4.2 percent
10 or the annual percentage increase in the gross
11 domestic product for the 12-month period ending
12 in June before the beginning of that subsequent
13 fiscal year.

14 “(2) NATIONAL MEDIGRANT GROWTH PERCENT-
15 AGE.—For purposes of this section for a fiscal year
16 (beginning with fiscal year 1997), the ‘national
17 MediGrant growth percentage’ is the percentage by
18 which—

19 “(A) the pool amount under paragraph (1)
20 for the fiscal year, exceeds

21 “(B) such pool amount for the previous fis-
22 cal year.

23 “(c) STATE OUTLAY ALLOTMENTS.—

24 “(1) FISCAL YEAR 1996.—

1 “(A) *IN GENERAL.*—For each of the 50
 2 States and the District of Columbia, the amount
 3 of the State outlay allotment under this sub-
 4 section for fiscal year 1996 is, subject to para-
 5 graph (4), determined in accordance with the fol-
 6 lowing table:

“State or District:	Outlay allotment (in dollars):
Alabama	1,517,652,207
Alaska	204,933,213
Arizona	1,370,781,297
Arkansas	1,011,457,933
California	8,946,838,461
Colorado	757,492,679
Connecticut	1,463,011,635
Delaware	212,327,763
District of Columbia	501,412,091
Florida	3,715,624,180
Georgia	2,426,320,602
Hawaii	323,124,375
Idaho	278,329,686
Illinois	3,467,274,342
Indiana	1,952,467,267
Iowa	835,235,895
Kansas	713,700,869
Kentucky	1,577,828,832
Louisiana	2,622,000,000
Maine	694,220,790
Maryland	1,369,699,847
Massachusetts	2,870,346,862
Michigan	3,465,182,886
Minnesota	1,793,776,356
Mississippi	1,261,781,330
Missouri	1,849,248,945
Montana	312,212,472
Nebraska	463,900,417
Nevada	257,896,453
New Hampshire	360,000,000
New Jersey	2,854,621,241
New Mexico	634,756,945
New York	12,901,793,038
North Carolina	2,587,883,809
North Dakota	241,168,563
Ohio	4,034,049,690
Oklahoma	911,198,775
Oregon	1,088,670,440
Pennsylvania	4,454,423,400
Rhode Island	545,686,262
South Carolina	1,621,021,815

“State or District:	Outlay allotment (in dollars):
<i>South Dakota</i>	262,804,959
<i>Tennessee</i>	2,519,934,251
<i>Texas</i>	6,351,909,343
<i>Utah</i>	484,274,254
<i>Vermont</i>	248,158,729
<i>Virginia</i>	1,144,962,509
<i>Washington</i>	1,763,460,996
<i>West Virginia</i>	1,156,813,157
<i>Wisconsin</i>	1,709,500,642
<i>Wyoming</i>	132,925,390.

1 “(2) COMPUTATION OF STATE OUTLAY ALLOT-
2 MENTS.—

3 “(A) IN GENERAL.—Subject to the succeed-
4 ing provisions of this subsection, the amount of
5 the State outlay allotment under this subsection
6 for one of the 50 States and the District of Co-
7 lumbia for a fiscal year (beginning with fiscal
8 year 1997) is equal to the product of—

9 “(i) the needs-based amount deter-
10 mined under subparagraph (B) for such
11 State or District for the fiscal year, and

12 “(ii) the scalar factor described in sub-
13 paragraph (C) for the fiscal year.

14 “(B) NEEDS-BASED AMOUNT.—The needs-
15 based amount under this subparagraph for a
16 State or the District of Columbia for a fiscal
17 year is equal to the product of—

18 “(i) the State’s or District’s aggregate
19 expenditure need for the fiscal year (as de-
20 termined under subsection (d)), and

1 “(ii) the State’s or District’s old Fed-
2 eral medical assistance percentage (as de-
3 fined in section 2122(d)) for the fiscal year
4 (or, in the case of fiscal year 1997, the Fed-
5 eral medical assistance percentage deter-
6 mined under section 1905(b) for fiscal year
7 1996).

8 “(C) SCALAR FACTOR.—The scalar factor
9 under this subparagraph for a fiscal year is such
10 proportion so that, when it is applied under sub-
11 paragraph (A)(ii) for the fiscal year (taking into
12 account the floors and ceilings under paragraph
13 (3)), the total of the outlay allotments under this
14 subsection for all the 50 States and the District
15 of Columbia for the fiscal year (not taking into
16 account any increase in an outlay allotment for
17 a fiscal year attributable to the election of an al-
18 ternative growth formula under paragraph (4))
19 is equal to the amount by which (i) the pool
20 amount for the fiscal year (as determined under
21 subsection (b)), exceeds (ii) the sum of the outlay
22 allotments provided under paragraph (5) for the
23 Commonwealths and territories for the fiscal
24 year.

25 “(3) FLOORS AND CEILINGS.—

1 “(A) *FLOORS*.—Subject to the ceiling estab-
2 lished under subparagraph (B), in no case shall
3 the amount of the State outlay allotment under
4 paragraph (2) for a fiscal year be less than the
5 greatest of the following:

6 “(i) *IN GENERAL*.—Beginning with fis-
7 cal year 1998, 0.24 percent of the pool
8 amount for the fiscal year.

9 “(ii) *FLOOR BASED ON PREVIOUS*
10 *YEAR’S OUTLAY ALLOTMENT*.—Subject to
11 clause (iii)—

12 “(I) *FISCAL YEAR 1997*.—For fis-
13 cal year 1997, 103.5 percent of the
14 amount of the State outlay allotment
15 under this subsection for fiscal year
16 1996.

17 “(II) *FISCAL YEAR 1998*.—For fis-
18 cal year 1998, 103 percent of the
19 amount of the State outlay allotment
20 under this subsection for fiscal year
21 1997.

22 “(III) *SUBSEQUENT FISCAL*
23 *YEARS*.—For a fiscal year after 1998,
24 102 percent of the amount of the State

1 *outlay allotment under this subsection*
2 *for the previous fiscal year.*

3 “(iii) *FLOOR BASED ON OUTLAY AL-*
4 *LOTMENT GROWTH RATE IN FIRST YEAR.—*
5 *Beginning with fiscal year 1998, in the case*
6 *of a State for which the outlay allotment*
7 *under this subsection for fiscal year 1997*
8 *exceeded its outlay allotment under this sub-*
9 *section for the previous fiscal year by more*
10 *than the national MediGrant growth per-*
11 *centage for fiscal year 1997, 104 percent of*
12 *the amount of the State outlay allotment*
13 *under this subsection for the previous fiscal*
14 *year (or, if less, beginning with fiscal year*
15 *2003, 95 percent of the national MediGrant*
16 *growth percentage for the year).*

17 “(B) *CEILINGS.—*

18 “(i) *IN GENERAL.—Subject to clause*
19 *(ii), in no case shall the amount of the*
20 *State outlay allotment under paragraph (2)*
21 *for a fiscal year be greater than the product*
22 *of—*

23 “(I) *the State outlay allotment*
24 *under this subsection for the State for*
25 *the preceding fiscal year, and*

1 “(II) the applicable percent (spec-
2 ified in clause (ii) or (iii)) for the fis-
3 cal year involved.

4 “(ii) *GENERAL RULE FOR APPLICABLE*
5 *PERCENT.*—For purposes of clause (i), sub-
6 ject to clause (iii), the ‘applicable percent’—

7 “(I) for fiscal year 1997 is 109
8 percent, and

9 “(II) for a subsequent fiscal year
10 is 105.33 percent.

11 “(iii) *SPECIAL RULE.*—For a fiscal
12 year after fiscal year 1997, in the case of a
13 State (among the 50 States and the District
14 of Columbia) that is one of the 10 States
15 with the lowest Federal MediGrant spending
16 per resident-in-poverty rates (as determined
17 under clause (iv)) for the fiscal year, the
18 ‘applicable percent’ is 107 percent.

19 “(iv) *DETERMINATION OF FEDERAL*
20 *MEDIGRANT SPENDING PER RESIDENT-IN-*
21 *POVERTY RATE.*—For purposes of clause
22 (iii), the ‘Federal MediGrant spending per
23 resident-in-poverty rate’ for a State for a
24 fiscal year is equal to—

1 “(I) the State’s outlay allotment
2 under this subsection for the previous
3 fiscal year (determined without regard
4 to paragraph (4)), divided by

5 “(II) the average annual number
6 of residents of the State in poverty (as
7 defined in subsection (d)(2)) with re-
8 spect to the fiscal year.

9 “(C) SPECIAL RULE.—

10 “(i) IN GENERAL.—Notwithstanding
11 the preceding subparagraphs of this para-
12 graph, the State outlay allotment for—

13 “(I) New Hampshire for each of
14 the fiscal years 1997 through 2000, is
15 \$360,000,000,

16 “(II) Louisiana, subject to
17 subclause (III), for each of the fiscal
18 years 1997 through 2000, is
19 \$2,622,000,000, and

20 “(III) Louisiana and Nebraska
21 for fiscal year 1997, as otherwise deter-
22 mined, shall be increased by
23 \$37,048,207 and \$106,132,408, respec-
24 tively.

1 “(IV) Nevada for each of fiscal
2 years 1996, 1997, and 1998, as other-
3 wise determined, shall be increased by
4 \$90,000,000.

5 “(ii) *EXCEPTION.*—A State described
6 in subclause (I) or (II) of clause (i) may
7 apply to the Secretary for use of the State
8 outlay allotment otherwise determined
9 under this subsection for any fiscal year, if
10 such State notifies the Secretary not later
11 than March 1 preceding such fiscal year
12 that such State will be able to expend suffi-
13 cient State funds in such fiscal year to
14 qualify for such allotment.

15 “(iii) *TREATMENT OF INCREASE AS*
16 *SUPPLEMENTAL ALLOTMENT.*—Any increase
17 in an outlay allotment under clause (i)(III)
18 or (i)(IV) shall not be taken into account
19 for purposes of determining the scalar factor
20 under paragraph (2) for fiscal year 1997,
21 any State outlay allotment for a fiscal year
22 after fiscal year 1997, the pool amount for
23 a fiscal year after fiscal year 1997, or deter-
24 mination of the national MediGrant growth
25 percentage for any fiscal year.

1 “(4) *ELECTION OF ALTERNATIVE GROWTH FOR-*
2 *MULA.*—

3 “(A) *ELECTION.*—*In order to reduce vari-*
4 *ations in increases in outlay allotments over*
5 *time, any of the 50 States or the District of Co-*
6 *lumbia may elect (by notice provided to the Sec-*
7 *retary by not later than April 1, 1996) to adopt*
8 *an alternative growth rate formula under this*
9 *paragraph for the determination of the State’s*
10 *outlay allotment in fiscal year 1996 and for the*
11 *increase in the amount of such allotment in sub-*
12 *sequent fiscal years.*

13 “(B) *FORMULA.*—*The alternative growth*
14 *formula under this paragraph may be any for-*
15 *mula under which a portion of the State outlay*
16 *allotment for fiscal year 1996 under paragraph*
17 *(1) is deferred and applied to increase the*
18 *amount of its outlay allotment for one or more*
19 *subsequent fiscal years, so long as the total*
20 *amount of such increases for all such subsequent*
21 *fiscal years does not exceed the amount of the*
22 *outlay allotment deferred from fiscal year 1996.*

23 “(5) *COMMONWEALTHS AND TERRITORIES.*—

24 “(A) *IN GENERAL.*—*The outlay allotment*
25 *for each of the Commonwealths and territories*

1 for a fiscal year is the maximum amount that
2 could have been certified under section 1108(c)
3 (as in effect on the day before the date of the en-
4 actment of this title) with respect to the Com-
5 monwealth or territory for the fiscal year with
6 respect to title XIX, if the national MediGrant
7 growth percentage (as determined under sub-
8 section (b)(2)) for the fiscal year had been sub-
9 stituted (beginning with fiscal year 1997) for the
10 percentage increase referred to in section
11 1108(c)(1)(B) (as so in effect).

12 “(B) *DISREGARD OF ROUNDING REQUIRE-*
13 *MENTS.—For purposes of subparagraph (A), the*
14 *rounding requirements under section 1108(c)*
15 *shall not apply.*

16 “(C) *LIMITATION ON TOTAL AMOUNT FOR*
17 *FISCAL YEAR 1996.—Notwithstanding the provi-*
18 *sions of subparagraph (A), the total amount of*
19 *the outlay allotments for the Commonwealths*
20 *and territories for fiscal year 1996 may not ex-*
21 *ceed \$139,950,000.*

22 “(d) *STATE AGGREGATE EXPENDITURE NEED DETER-*
23 *MINED.—*

24 “(1) *IN GENERAL.—For purposes of subsection*
25 *(c), the ‘State aggregate expenditure need’ for a State*

1 or the District of Columbia for a fiscal year is equal
2 to the product of the following 4 factors:

3 “(A) *RESIDENTS IN POVERTY*.—The average
4 annual number of residents in poverty of such
5 State or District with respect to the fiscal year
6 (as determined under paragraph (2)).

7 “(B) *CASE MIX INDEX*.—The case mix index
8 for such State or District (as determined under
9 paragraph (3)) for the most recent fiscal year for
10 which data are available, but in no case less
11 than 0.9 or greater than 1.15.

12 “(C) *INPUT COST INDEX*.—The input cost
13 index for the State (as determined under para-
14 graph (4)) for the most recent fiscal year for
15 which data are available.

16 “(D) *NATIONAL AVERAGE SPENDING PER*
17 *RESIDENT IN POVERTY*.—The national average
18 spending per resident in poverty (as determined
19 under paragraph (5)).

20 “(2) *RESIDENTS IN POVERTY*.—In this section—

21 “(A) *IN GENERAL*.—The term ‘average an-
22 nual number of residents in poverty’ means,
23 with respect to a State or the District of Colum-
24 bia and a fiscal year, the average annual num-
25 ber of residents in poverty (as defined in sub-

1 paragraph (B)) in such State or District (based
2 on data made generally available by the Bureau
3 of the Census from the Current Population Sur-
4 vey) for the most recent 3-calendar-year period
5 (ending before the fiscal year) for which such
6 data are available.

7 “(B) *RESIDENT IN POVERTY DEFINED.*—The
8 term ‘resident in poverty’ means an individual
9 whose family income does not exceed the poverty
10 threshold (as such terms are defined by the Office
11 of Management and Budget and are generally
12 interpreted and applied by the Bureau of the
13 Census for the year involved).

14 “(3) *CASE MIX INDEX.*—

15 “(A) *IN GENERAL.*—In this subsection, the
16 ‘case mix index’ for a State or the District of Co-
17 lumbia for a fiscal year is equal to—

18 “(i) the sum of—

19 “(I) the projected per recipient ex-
20 penditures with respect to elderly indi-
21 viduals in such State or District for
22 the fiscal year (determined under sub-
23 paragraph (B)),

24 “(II) the projected per recipient
25 expenditures with respect to the blind

1 *and disabled individuals in such State*
2 *or District for the fiscal year (deter-*
3 *mined under subparagraph (C)), and*

4 *“(III) the projected per recipient*
5 *expenditures with respect to other indi-*
6 *viduals in such State or District (de-*
7 *termined under subparagraph (D));*

8 *divided by—*

9 *“(ii) the national average spending per*
10 *recipient determined under subparagraph*
11 *(E) for the fiscal year involved.*

12 *“(B) PROJECTED PER RECIPIENT EXPENDI-*
13 *TURES FOR THE ELDERLY.—For purposes of sub-*
14 *paragraph (A)(i)(I), the ‘projected per recipient*
15 *expenditures with respect to elderly individuals’*
16 *in a State or the District of Columbia for a fis-*
17 *cal year is equal to the product of—*

18 *“(i) the national average per recipient*
19 *expenditures under this title in the 50*
20 *States and the District of Columbia for the*
21 *most recent fiscal year for which data are*
22 *available for elderly individuals, and*

23 *“(ii) the proportion, of all individuals*
24 *who received medical assistance under this*
25 *title in such State or District in the most*

1 *recent fiscal year referred to in clause (i),*
2 *that were individuals described in such*
3 *clause.*

4 “(C) *PROJECTED PER RECIPIENT EXPENDI-*
5 *TURES FOR THE BLIND AND DISABLED.—For*
6 *purposes of subparagraph (A)(i)(II), the ‘pro-*
7 *jected per recipient expenditures with respect to*
8 *blind and disabled individuals’ in a State or the*
9 *District of Columbia for a fiscal year is equal to*
10 *the product of—*

11 “(i) *the national average per recipient*
12 *expenditures under this title in the 50*
13 *States and the District of Columbia for the*
14 *most recent fiscal year for which data are*
15 *available for individuals who are eligible for*
16 *medical assistance because such individuals*
17 *are blind or disabled and are not elderly in-*
18 *dividuals, and*

19 “(ii) *the proportion, of all individuals*
20 *who received medical assistance under this*
21 *title in the State in the most recent fiscal*
22 *year referred to in clause (i), that were in-*
23 *dividuals described in such clause.*

24 “(D) *PROJECTED PER RECIPIENT EXPENDI-*
25 *TURES FOR OTHER INDIVIDUALS.—For purposes*

1 of subparagraph (A)(i)(III), the ‘projected per
2 recipient expenditures with respect to other indi-
3 viduals’ in a State or the District of Columbia
4 for a fiscal year is equal to the product of—

5 “(i) the national average per recipient
6 expenditures under this title in the 50
7 States and the District of Columbia for the
8 most recent fiscal year for which data are
9 available for individuals who are not de-
10 scribed in subparagraph (B)(i) or (C)(i),
11 and

12 “(ii) the proportion, of all individuals
13 who received medical assistance under this
14 title in such State or District in the most
15 recent fiscal year referred to in clause (i),
16 that were individuals described in such
17 clause.

18 “(E) NATIONAL AVERAGE SPENDING PER
19 RECIPIENT.—For purposes of this paragraph, the
20 ‘national average expenditures per recipient’ for
21 a fiscal year is equal to the sum of—

22 “(i) the product of (I) the national av-
23 erage described in subparagraph (B)(i), and
24 (II) the proportion, of all individuals who
25 received medical assistance under this title

1 *in any of the 50 States or the District of*
2 *Columbia in the fiscal year referred to in*
3 *such subparagraph, who are described in*
4 *such subparagraph,*

5 “(ii) *the product of (I) the national av-*
6 *erage described in subparagraph (C)(i), and*
7 *(II) the proportion, of all individuals who*
8 *received medical assistance under this title*
9 *in any of the 50 States or the District of*
10 *Columbia in the fiscal year referred to in*
11 *such subparagraph, who are described in*
12 *such subparagraph, and*

13 “(iii) *the product of (I) the national*
14 *average described in subparagraph (D)(i),*
15 *and (II) the proportion, of all individuals*
16 *who received medical assistance under this*
17 *title in any of the 50 States or the District*
18 *of Columbia in the fiscal year referred to in*
19 *such subparagraph, who are described in*
20 *such subparagraph.*

21 “(F) *DETERMINATION OF NATIONAL AVER-*
22 *AGES AND PROPORTIONS.—*

23 “(i) *IN GENERAL.—The national aver-*
24 *ages per recipient and the proportions re-*
25 *ferred to in clauses (i) and (ii), respectively,*

1 of subparagraphs (B), (C), and (D) and
2 subparagraph (E) shall be determined by
3 the Secretary using the most recent data
4 available.

5 “(ii) *USE OF MEDICAID DATA.*—If for
6 a fiscal year there is inadequate data to
7 compute such averages and proportions
8 based on expenditures and numbers of indi-
9 viduals receiving medical assistance under
10 this title, the Secretary may compute such
11 averages based on expenditures and num-
12 bers of such individuals under title XIX for
13 the most recent fiscal year for which data
14 are available and, for this purpose—

15 “(I) any reference in subpara-
16 graph (B)(i) to ‘elderly individuals’ is
17 deemed a reference to ‘individuals
18 whose eligibility for medical assistance
19 is based on being 65 years of age or
20 older’,

21 “(II) the reference in subpara-
22 graph (C)(i) to ‘and are not elderly in-
23 dividuals’ shall be considered to be de-
24 leted, and

1 “(III) individuals whose basis for
2 eligibility for medical assistance was
3 reported as unknown shall not be
4 counted as individuals under subpara-
5 graph (D)(i).

6 “(iii) *EXPENDITURE DEFINED.*—For
7 purposes of this paragraph, the term ‘ex-
8 penditure’ means medical vendor payments
9 by basis of eligibility as reported by HCFA
10 Form 2082.

11 “(4) *INPUT COST INDEX.*—

12 “(A) *IN GENERAL.*—In this section, the
13 ‘input cost index’ for a State or the District of
14 Columbia for a fiscal year is the sum of—

15 “(i) 0.15, and

16 “(ii) 0.85 multiplied by the ratio of (I)
17 the annual average wages for hospital em-
18 ployees in such State or District for the fis-
19 cal year (as determined under subpara-
20 graph (B)), to (II) the annual average
21 wages for hospital employees in the 50
22 States and the District of Columbia for such
23 year (as determined under such subpara-
24 graph).

1 “(B) *DETERMINATION OF ANNUAL AVERAGE*
2 *WAGES OF HOSPITAL EMPLOYEES.*—*The Sec-*
3 *retary shall provide for the determination of an-*
4 *annual average wages for hospital employees in a*
5 *State or the District of Columbia and, collec-*
6 *tively, in the 50 States and the District of Co-*
7 *lumbia for a fiscal year based on the area wage*
8 *data applicable to hospitals under section*
9 *1886(d)(2)(E) (or, if such data no longer exists,*
10 *comparable data of hospital wages) for dis-*
11 *charges occurring during the fiscal year involved.*

12 “(5) *NATIONAL AVERAGE SPENDING PER RESI-*
13 *DENT IN POVERTY.*—*For purposes of this subsection,*
14 *the ‘national average spending per resident in pov-*
15 *erty’—*

16 “(A) *for fiscal year 1997 is equal to—*

17 “(i) *the sum (for each of the 50 States*
18 *and the District of Columbia) of the total of*
19 *the Federal and State expenditures under*
20 *title XIX for calendar quarters in fiscal*
21 *year 1994, increased by the percentage by*
22 *which (I) the pool amount for fiscal year*
23 *1997, exceeds (II) \$83,213,431,458 (which*
24 *represents Federal medicaid expenditures*

1 for such States and District for fiscal year
2 1994); divided by

3 “(ii) the sum of the number of resi-
4 dents in poverty (as defined in paragraph
5 (2)(A)) for all of the 50 States and the Dis-
6 trict of Columbia for fiscal year 1994; and
7 “(B) for a succeeding fiscal year is equal to
8 the national average spending per resident in
9 poverty under this paragraph for the preceding
10 fiscal year increased by the national MediGrant
11 growth percentage (as defined in subsection
12 (b)(2)) for the fiscal year involved.

13 “(e) *PUBLICATION OF OBLIGATION AND OUTLAY AL-*
14 *LOTMENTS.*—

15 “(1) *NOTICE OF PRELIMINARY ALLOTMENTS.*—
16 Not later than April 1 before the beginning of each
17 fiscal year (beginning with fiscal year 1997), the Sec-
18 retary shall initially compute, after consultation with
19 the Comptroller General, and publish in the Federal
20 Register notice of the proposed obligation and outlay
21 allotments for each State under this section (not tak-
22 ing into account subsection (a)(2)(B)) for the fiscal
23 year. The Secretary shall include in the notice a de-
24 scription of the methodology and data used in deriv-
25 ing such allotments for the year.

1 “(2) *REVIEW BY GAO.*—*The Comptroller General*
2 *shall submit to Congress by not later than May 15 of*
3 *each such fiscal year, a report analyzing such allot-*
4 *ments and the extent to which they comply with the*
5 *precise requirements of this section.*

6 “(3) *NOTICE OF FINAL ALLOTMENTS.*—*Not later*
7 *than July 1 before the beginning of each such fiscal*
8 *year, the Secretary, taking into consideration the*
9 *analysis contained in the report of the Comptroller*
10 *General under paragraph (2), shall compute and pub-*
11 *lish in the Federal Register notice of the final allot-*
12 *ments under this section (both taking into account*
13 *and not taking into account subsection (a)(2)(B)) for*
14 *the fiscal year. The Secretary shall include in the no-*
15 *tice a description of any changes in such allotments*
16 *from the initial allotments published under para-*
17 *graph (1) for the fiscal year and the reasons for such*
18 *changes. Once published under this paragraph, the*
19 *Secretary is not authorized to change such allotments.*

20 “(4) *GAO REPORT ON FINAL ALLOTMENTS.*—*The*
21 *Comptroller General shall submit to Congress by not*
22 *later than August 1 of each such fiscal year, a report*
23 *analyzing the final allotments under paragraph (3)*
24 *and the extent to which they comply with the precise*
25 *requirements of this section.*

1 “(f) *SUPPLEMENTAL ALLOTMENT FOR EMERGENCY*
2 *HEALTH CARE SERVICES TO CERTAIN ALIENS.*—

3 “(1) *IN GENERAL.*—*Notwithstanding the pre-*
4 *vious provisions of this section, the amount of the*
5 *State outlay allotment for each of fiscal years 1996*
6 *through 2000 for each supplemental allotment eligible*
7 *State shall be increased by the amount of the supple-*
8 *mental outlay allotment provided under paragraph*
9 *(2) for the State for that year. The amount of such*
10 *increased allotment may only be used for the purpose*
11 *of providing medical assistance for care and services*
12 *for aliens described in paragraph (1) of section*
13 *2123(e) and for which the exception described in*
14 *paragraph (2) of such section applies. Section*
15 *2122(f)(3) shall apply to such assistance in the same*
16 *manner as it applies to medical assistance described*
17 *in such section.*

18 “(2) *SUPPLEMENTAL OUTLAY ALLOTMENT.*—

19 “(A) *IN GENERAL.*—*For purposes of para-*
20 *graph (1), the amount of the supplemental out-*
21 *lay allotment for a supplemental allotment eligi-*
22 *ble State for a fiscal year is equal to the supple-*
23 *mental allotment ratio (as defined in subpara-*
24 *graph (C)) multiplied by the supplemental pool*

1 *amount (specified in subparagraph (D)) for the*
2 *fiscal year.*

3 “(B) *SUPPLEMENTAL ALLOTMENT ELIGIBLE*
4 *STATE.—In this subsection, the term ‘supple-*
5 *mental allotment eligible State’ means one of the*
6 *15 States with the highest number of undocu-*
7 *mented alien residents of all the States.*

8 “(C) *SUPPLEMENTAL ALLOTMENT RATIO.—*
9 *In this paragraph, the ‘supplemental allotment*
10 *ratio’ for a State is the ratio of—*

11 “(i) *the number of undocumented*
12 *aliens residing in the State, to*

13 “(ii) *the sum of such numbers for all*
14 *supplemental allotment eligible States.*

15 “(D) *SUPPLEMENTAL POOL AMOUNT.—In*
16 *this paragraph, the ‘supplemental pool*
17 *amount’—*

18 “(i) *for fiscal year 1996 is*
19 *\$627,325,551,*

20 “(ii) *for fiscal year 1997 is*
21 *\$673,388,855,*

22 “(iii) *for fiscal year 1998 is*
23 *\$702,313,450,*

24 “(iv) *for fiscal year 1999 is*
25 *\$733,140,258, and*

1 “(v) for fiscal year 2000 is
2 \$763,831,886.

3 “(E) DETERMINATION OF NUMBER.—

4 “(i) IN GENERAL.—The number of un-
5 documented aliens residing in a State
6 under this paragraph—

7 “(I) for fiscal year 1996 shall be
8 determined based on estimates of the
9 resident illegal alien population resid-
10 ing in each State prepared by the Sta-
11 tistics Division of the Immigration
12 and Naturalization Service as of Octo-
13 ber 1992, and

14 “(II) for a subsequent fiscal year
15 shall be determined based on the most
16 recent updated estimate made under
17 clause (ii).

18 “(ii) UPDATING ESTIMATE.—For each
19 fiscal year beginning with fiscal year 1997,
20 the Secretary, in consultation with the
21 Commission of the Immigration and Natu-
22 ralization Service, States, and outside ex-
23 perts, shall estimate the number of undocu-
24 mented aliens residing in each of the 50
25 States and the District of Columbia.

1 “(3) *TREATMENT FOR OBLIGATION PURPOSES.*—
2 *For purposes of computing obligation allotments*
3 *under subsection (a)—*

4 “(A) *the amount of the supplemental pool*
5 *amount for a fiscal year shall be added to the*
6 *pool amount under subsection (b) for that fiscal*
7 *year, and*

8 “(B) *the amount of the supplemental allot-*
9 *ment to a State provided under paragraph (1)*
10 *shall be added to the outlay allotment of the*
11 *State for that fiscal year.*

12 “(4) *SEQUENCE OF OBLIGATIONS.*—*For purposes*
13 *of carrying out this title, payments to a supplemental*
14 *allotment eligible State under section 2122 that are*
15 *attributable to expenditures for medical assistance de-*
16 *scribed in the second sentence of paragraph (1) shall*
17 *first be counted toward the supplemental outlay allot-*
18 *ment provided under this subsection, rather than to-*
19 *ward the outlay allotment otherwise provided under*
20 *this section.*

21 **“SEC. 2122. PAYMENTS TO STATES.**

22 “(a) *AMOUNT OF PAYMENT.*—*From the allotment of a*
23 *State under section 2121 for a fiscal year, subject to the*
24 *succeeding provisions of this title, the Secretary shall pay*

1 *to each State which has a MediGrant plan approved under*
2 *part E, for each quarter in the fiscal year—*

3 “(1) *an amount equal to the applicable Federal*
4 *medical assistance percentage (as defined in sub-*
5 *section (c)) of the total amount expended during such*
6 *quarter as medical assistance under the plan; plus*

7 “(2) *an amount equal to the applicable Federal*
8 *medical assistance percentage of the total amount ex-*
9 *pended during such quarter for medically-related*
10 *services (as defined in section 2112(e)(2)); plus*

11 “(3) *subject to section 2123(c)—*

12 “(A) *an amount equal to 90 percent of the*
13 *amounts expended during such quarter for the*
14 *design, development, and installation of informa-*
15 *tion systems and for providing incentives to pro-*
16 *mote the enforcement of medical support orders,*
17 *plus*

18 “(B) *an amount equal to 75 percent of the*
19 *amounts expended during such quarter for medi-*
20 *cal personnel, administrative support of medical*
21 *personnel, operation and maintenance of infor-*
22 *mation systems, modification of information sys-*
23 *tems, quality assurance activities, utilization re-*
24 *view, medical and peer review, anti-fraud activi-*
25 *ties, independent evaluations, coordination of*

1 *benefits, and meeting reporting requirements*
2 *under this title, plus*

3 “(C) *an amount equal to 50 percent of so*
4 *much of the remainder of the amounts expended*
5 *during such quarter as are expended by the State*
6 *in the administration of the State MediGrant*
7 *plan.*

8 “(b) *PAYMENT PROCESS.—*

9 “(1) *QUARTERLY ESTIMATES.—Prior to the be-*
10 *ginning of each quarter, the Secretary shall estimate*
11 *the amount to which a State will be entitled under*
12 *subsection (a) for such quarter, such estimates to be*
13 *based on (A) a report filed by the State containing*
14 *its estimate of the total sum to be expended in such*
15 *quarter in accordance with the provisions of such sub-*
16 *sections, and stating the amount appropriated or*
17 *made available by the State and its political subdivi-*
18 *sions for such expenditures in such quarter, and if*
19 *such amount is less than the State’s proportionate*
20 *share of the total sum of such estimated expenditures,*
21 *the source or sources from which the difference is ex-*
22 *pected to be derived, and (B) such other investigation*
23 *as the Secretary may find necessary.*

24 “(2) *PAYMENT.—*

1 “(A) *IN GENERAL.*—*The Secretary shall*
2 *then pay to the State, in such installments as the*
3 *Secretary may determine and in accordance*
4 *with section 6503(a) of title 31, United States*
5 *Code, the amount so estimated, reduced or in-*
6 *creased to the extent of any overpayment or*
7 *underpayment which the Secretary determines*
8 *was made under this section (or section 1903) to*
9 *such State for any prior quarter and with re-*
10 *spect to which adjustment has not already been*
11 *made under this subsection (or under section*
12 *1903(d)).*

13 “(B) *TREATMENT AS OVERPAYMENTS.*—*Ex-*
14 *penditures for which payments were made to the*
15 *State under subsection (a) shall be treated as an*
16 *overpayment to the extent that the State or local*
17 *agency administering such plan has been reim-*
18 *bursed for such expenditures by a third party*
19 *pursuant to the provisions of its plan in compli-*
20 *ance with section 2135.*

21 “(C) *RECOVERY OF OVERPAYMENTS.*—*For*
22 *purposes of this subsection, when an overpay-*
23 *ment is discovered, which was made by a State*
24 *to a person or other entity, the State shall have*
25 *a period of 60 days in which to recover or at-*

1 *tempt to recover such overpayment before adjust-*
2 *ment is made in the Federal payment to such*
3 *State on account of such overpayment. Except as*
4 *otherwise provided in subparagraph (D), the ad-*
5 *justment in the Federal payment shall be made*
6 *at the end of the 60 days, whether or not recov-*
7 *ery was made.*

8 “(D) NO ADJUSTMENT FOR
9 *UNCOLLECTABLES.—In any case where the State*
10 *is unable to recover a debt which represents an*
11 *overpayment (or any portion thereof) made to a*
12 *person or other entity on account of such debt*
13 *having been discharged in bankruptcy or other-*
14 *wise being uncollectable, no adjustment shall be*
15 *made in the Federal payment to such State on*
16 *account of such overpayment (or portion thereof).*

17 “(3) FEDERAL SHARE OF RECOVERIES.—*The pro*
18 *rata share to which the United States is equitably en-*
19 *titled, as determined by the Secretary, of the net*
20 *amount recovered during any quarter by the State or*
21 *any political subdivision thereof with respect to medi-*
22 *cal assistance furnished under the State MediGrant*
23 *plan shall be considered an overpayment to be ad-*
24 *justed under this subsection.*

1 “(4) *TIMING OF OBLIGATION OF FUNDS.*—Upon
2 *the making of any estimate by the Secretary under*
3 *this subsection, any appropriations available for pay-*
4 *ments under this section shall be deemed obligated.*

5 “(5) *DISALLOWANCES.*—In any case in which
6 *the Secretary estimates that there has been an over-*
7 *payment under this section to a State on the basis of*
8 *a claim by such State that has been disallowed by the*
9 *Secretary under section 1116(d), and such State dis-*
10 *putes such disallowance, the amount of the Federal*
11 *payment in controversy shall, at the option of the*
12 *State, be retained by such State or recovered by the*
13 *Secretary pending a final determination with respect*
14 *to such payment amount. If such final determination*
15 *is to the effect that any amount was properly dis-*
16 *allowed, and the State chose to retain payment of the*
17 *amount in controversy, the Secretary shall offset, from*
18 *any subsequent payments made to such State under*
19 *this title, an amount equal to the proper amount of*
20 *the disallowance plus interest on such amount dis-*
21 *allowed for the period beginning on the date such*
22 *amount was disallowed and ending on the date of*
23 *such final determination at a rate (determined by the*
24 *Secretary) based on the average of the bond equivalent*

1 of the weekly 90-day treasury bill auction rates dur-
2 ing such period.

3 “(c) *APPLICABLE FEDERAL MEDICAL ASSISTANCE*
4 *PERCENTAGE DEFINED.*—*In this section, except as pro-*
5 *vided in subsection (f), the term ‘applicable Federal medical*
6 *assistance percentage’ means, with respect to one of the 50*
7 *States or the District of Columbia, at the State’s or Dis-*
8 *trict’s option—*

9 “(1) *the old Federal medical assistance percent-*
10 *age (as determined in subsection (d));*

11 “(2) *the lesser of—*

12 “(A) *new Federal medical assistance per-*
13 *centage (as determined under subsection (e)) or*

14 “(B) *the old Federal medical assistance per-*
15 *centage plus 10 percentage points; or*

16 “(3) *60 percent.*

17 “(d) *OLD FEDERAL MEDICAL ASSISTANCE PERCENT-*
18 *AGE.*—

19 “(1) *IN GENERAL.*—*Except as provided in para-*
20 *graph (2) and subsection (f), the term ‘old Federal*
21 *medical assistance percentage’ for any State is 100*
22 *percent less the State percentage; and the State per-*
23 *centage is that percentage which bears the same ratio*
24 *to 45 percent as the square of the per capita income*
25 *of such State bears to the square of the per capita in-*

1 *come of the continental United States (including*
 2 *Alaska) and Hawaii.*

3 “(2) *LIMITATION ON RANGE.*—*In no case shall*
 4 *the old Federal medical assistance percentage be less*
 5 *than 50 percent or more than 83 percent.*

6 “(3) *PROMULGATION.*—*The old Federal medical*
 7 *assistance percentage for any State shall be deter-*
 8 *mined and promulgated in accordance with the provi-*
 9 *sions of section 1101(a)(8)(B).*

10 “(e) *NEW FEDERAL MEDICAL ASSISTANCE PERCENT-*
 11 *AGE DEFINED.*—

12 “(1) *IN GENERAL.*—

13 “(A) *TERM DEFINED.*—*Except as provided*
 14 *in paragraph (3) and subsection (f), the term*
 15 *‘new Federal medical assistance percentage’*
 16 *means, for each of the 50 States and the District*
 17 *of Columbia, 100 percent reduced by the product*
 18 *0.39 and the ratio of—*

19 “(i)(I) *for each of the 50 States, the*
 20 *total taxable resources (TTR) ratio of the*
 21 *State specified in subparagraph (B), or*

22 “(II) *for the District of Columbia, the*
 23 *per capita income ratio specified in sub-*
 24 *paragraph (C),*

25 *to—*

1 “(i) the aggregate expenditure need
2 ratio of the State or District, as described
3 in subparagraph (D).

4 “(B) TOTAL TAXABLE RESOURCES (TTR)
5 RATIO.—For purposes of subparagraph (A)(i)(I),
6 the total taxable resources (TTR) ratio for each
7 of the 50 States is—

8 “(i) an amount equal to the most re-
9 cent 3-year average of the total taxable re-
10 sources (TTR) of the State, as determined
11 by the Secretary of the Treasury, divided by

12 “(ii) an amount equal to the sum of
13 the 3-year averages determined under clause
14 (i) for each of the 50 States.

15 “(C) PER CAPITA INCOME RATIO.—For pur-
16 poses of subparagraph (A)(i)(II), the per capita
17 income ratio of the District of Columbia is—

18 “(i) an amount equal to the most re-
19 cent 3-year average of the total personal in-
20 come of the District of Columbia, as deter-
21 mined in accordance with the provisions of
22 section 1101(a)(8)(B), divided by

23 “(ii) an amount equal to the total per-
24 sonal income of the continental United

1 *States (including Alaska) and Hawaii, as*
2 *determined under section 1101(a)(8)(B).*

3 “(D) *AGGREGATE EXPENDITURE NEED*
4 *RATIO.—For purposes of subparagraph (A), with*
5 *respect to each of the 50 States and the District*
6 *of Columbia for a fiscal year, the aggregate ex-*
7 *penditure need ratio is—*

8 “(i) *the State aggregate expenditure*
9 *need (as defined in section 2121(d)) for the*
10 *State for the fiscal year, divided by*

11 “(ii) *the such of such State aggregate*
12 *expenditure needs for the 50 States and the*
13 *District of Columbia for the fiscal year.*

14 “(2) *LIMITATION ON RANGE.—Except as pro-*
15 *vided in subsection (f), the new Federal medical as-*
16 *stance percentage shall in no case be less than 40*
17 *percent or greater than 83 percent.*

18 “(3) *PROMULGATION.—The new Federal medical*
19 *assistance percentage for any State shall be promul-*
20 *gated in a timely manner consistent with the promul-*
21 *gation of the old Federal medical assistance percent-*
22 *age under section 1101(a)(8)(B).*

23 “(f) *SPECIAL RULES.—For purposes of this title—*

24 “(1) *COMMONWEALTHS AND TERRITORIES.—In*
25 *the case of Puerto Rico, the Virgin Islands, Guam, the*

1 *Northern Mariana Islands, and American Samoa, the*
2 *old and new Federal medical assistance percentages*
3 *are 50 percent.*

4 “(2) *ALASKA.*—*In the case of Alaska, the old*
5 *Federal medical assistance percentage is that percent-*
6 *age which bears the same ratio to 45 percent as the*
7 *square of the adjusted per capita income of such State*
8 *bears to the square of the per capita income of the*
9 *continental United States. For purposes of the preced-*
10 *ing sentence, the adjusted per capita income for Alas-*
11 *ka shall be determined by dividing the State’s most*
12 *recent 3-year average per capita by the input cost*
13 *index for such State (as determined under section*
14 *2121(d)(4)).*

15 “(3) *INDIAN HEALTH SERVICE FACILITIES.*—

16 “(A) *IN GENERAL.*—*The old and new Fed-*
17 *eral medical assistance percentages shall be 100*
18 *percent with respect to the amounts expended as*
19 *medical assistance for services which are received*
20 *through a facility described in subparagraph (B)*
21 *of an Indian tribe or tribal organization or*
22 *through an Indian Health Service facility wheth-*
23 *er operated by the Indian Health Service or by*
24 *an Indian tribe or tribal organization (as de-*

1 *defined in section 4 of the Indian Health Care Im-*
2 *provement Act).*

3 “(B) *FACILITY DESCRIBED.*—*For purposes*
4 *of subparagraph (A), a facility described in this*
5 *subparagraph is a facility of an Indian tribe*
6 *if—*

7 “(i) *the facility is located in a State*
8 *which, as of the date of the enactment of*
9 *this title, was not operating its State plan*
10 *under title XIX pursuant to a Statewide*
11 *waiver approved under section 1115,*

12 “(ii) *the facility is not an Indian*
13 *Health Service facility,*

14 “(iii) *the tribe owns at least 2 such fa-*
15 *cilities, and*

16 “(iv) *the tribe has at least 50,000*
17 *members (as of the date of the enactment of*
18 *this title).*

19 “(4) *NO STATE MATCHING REQUIRED FOR CER-*
20 *TAIN EXPENDITURES.*—*In applying subsection (a)(1)*
21 *with respect to medical assistance provided to unlaw-*
22 *ful aliens pursuant to the exception specified in sec-*
23 *tion 2123(f)(2), payment shall be made for the*
24 *amount of such assistance without regard to any need*
25 *for a State match.*

1 “(5) *SPECIAL TRANSITIONAL RULE.*—

2 “(A) *IN GENERAL.*—*Notwithstanding sub-*
3 *sections (a) and (f), in order to receive the full*
4 *State outlay allotment described in section*
5 *2121(c)(3)(C)(i), a State described in subpara-*
6 *graph (C) shall expend State funds in a fiscal*
7 *year (before fiscal year 2000) under a*
8 *MediGrant plan under this title in an amount*
9 *not less than the adjusted base year State ex-*
10 *penditures, plus the applicable percentage of the*
11 *difference between such expenditures and the*
12 *amount necessary to qualify for the full State*
13 *outlay allotment so described in such fiscal year*
14 *as determined under this section without regard*
15 *to this paragraph.*

16 “(B) *REDUCTION IN ALLOTMENT IF EX-*
17 *PENDITURE NOT MET.*—*In the event a State de-*
18 *scribed in subparagraph (C) fails to expend*
19 *State funds in an amount required by subpara-*
20 *graph (A) for a fiscal year, the outlay allotment*
21 *described in section 2121(c)(3)(C)(i) for such*
22 *year for such State shall be reduced by an*
23 *amount which bears the same ratio to such out-*
24 *lay allotment as the State funds expended in*

1 such fiscal year bears to the amount required by
2 subparagraph (A).

3 “(C) *ADJUSTED BASE YEAR STATE EXPEND-*
4 *ITURES.—For purposes of this paragraph, the*
5 *term ‘adjusted base year State expenditures’*
6 *means—*

7 “(i) *for New Hampshire, \$203,000,000,*
8 *and*

9 “(ii) *for Louisiana, \$355,000,000.*

10 “(D) *APPLICABLE PERCENTAGE.—For pur-*
11 *poses of this paragraph, the applicable percent-*
12 *age for a fiscal year is specified in the following*
13 *table:*

<i>“Fiscal year:</i>	<i>Applicable Percentage:</i>
1996	20
1997	40
1998	60
1999	80.

14 “(g) *STATE FINANCIAL PARTICIPATION.—Each*
15 *MediGrant plan shall provide for financial participation*
16 *by the State equal to not less than 40 percent of the non-*
17 *Federal share of the expenditures under the plan with re-*
18 *spect to which payments may be made under this section.*

1 **“SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOW-**
2 **ANCE.**

3 “(a) *IN GENERAL.*—*Funds provided to a State under*
4 *this title shall only be used to carry out the purposes of*
5 *this title.*

6 “(b) *DISALLOWANCES FOR EXCLUDED PROVIDERS.*—

7 “(1) *IN GENERAL.*—*Payment shall not be made*
8 *to a State under this part for expenditures for items*
9 *and services furnished—*

10 “(A) *by a provider who was excluded from*
11 *participation under title V, XVIII, or XX or*
12 *under this title pursuant to section 1128, 1128A,*
13 *1156, or 1842(j)(2), or*

14 “(B) *under the medical direction or on the*
15 *prescription of a physician who was so excluded,*
16 *if the provider of the services knew or had reason*
17 *to know of the exclusion.*

18 “(2) *EXCEPTION FOR EMERGENCY SERVICES.*—
19 *Paragraph (1) shall not apply to emergency items or*
20 *services, not including hospital emergency room serv-*
21 *ices.*

22 “(c) *LIMITATIONS.*—

23 “(1) *IN GENERAL.*—*No Federal financial assist-*
24 *ance is available for expenditures under the*
25 *MediGrant plan for—*

1 “(A) medically-related services for a quarter
2 to the extent such expenditures exceed 5 percent
3 of the total expenditures under the plan for the
4 quarter, or

5 “(B) total administrative expenses (other
6 than expenses described in paragraph (2) during
7 the first 8 quarters in which the plan is in effect
8 under this title) for quarters in a fiscal year to
9 the extent such expenditures exceed the sum of
10 \$20,000,000 plus 10 percent of the total expendi-
11 tures under the plan for the year.

12 “(2) ADMINISTRATIVE EXPENSES NOT SUBJECT
13 TO LIMITATION.—The administrative expenses re-
14 ferred to in this paragraph are expenditures under
15 the MediGrant plan for the following activities:

16 “(A) Quality assurance.

17 “(B) The development and operation of the
18 certification program for nursing facilities and
19 intermediate care facilities for the mentally re-
20 tarded under section 2137.

21 “(C) Utilization review activities, including
22 medical activities and activities of peer review
23 organizations.

24 “(D) Inspection and oversight of providers
25 and capitated health care organizations.

1 “(E) *Anti-fraud activities.*

2 “(F) *Independent evaluations.*

3 “(G) *Activities required to meet reporting*
4 *requirements under this title.*

5 “(d) *TREATMENT OF THIRD PARTY LIABILITY.—No*
6 *payment shall be made to a State under this part for ex-*
7 *penditures for medical assistance provided for an individ-*
8 *ual under its MediGrant plan to the extent that a private*
9 *insurer (as defined by the Secretary by regulation and in-*
10 *cluding a group health plan (as defined in section 607(1)*
11 *of the Employee Retirement Income Security Act of 1974),*
12 *a service benefit plan, and a health maintenance organiza-*
13 *tion) would have been obligated to provide such assistance*
14 *but for a provision of its insurance contract which has the*
15 *effect of limiting or excluding such obligation because the*
16 *individual is eligible for or is provided medical assistance*
17 *under the plan.*

18 “(e) *MEDIGRANT AS SECONDARY PAYER.—Except as*
19 *otherwise provided by law, no payment shall be made to*
20 *a State under this part for expenditures for medical assist-*
21 *ance provided for an individual under its MediGrant plan*
22 *to the extent that payment has been made or can reasonably*
23 *be expected to be made promptly (as determined in accord-*
24 *ance with regulations) under any other federally operated*
25 *or financed health care program, other than a program op-*

1 *erated or financed by the Indian Health Service, as identi-*
2 *fied by the Secretary. For purposes of this subsection, rules*
3 *similar to the rules for overpayments under section 2122(b)*
4 *shall apply.*

5 “(f) *LIMITATION ON PAYMENTS TO EMERGENCY SERV-*
6 *ICES FOR NONLAWFUL ALIENS.—*

7 “(1) *IN GENERAL.—Notwithstanding the preced-*
8 *ing provisions of this section, except as provided in*
9 *paragraph (2), no payment may be made to a State*
10 *under this part for medical assistance furnished to an*
11 *alien who is not lawfully admitted for permanent res-*
12 *idence or otherwise permanently residing in the Unit-*
13 *ed States under color of law.*

14 “(2) *EXCEPTION FOR EMERGENCY SERVICES.—*
15 *Payment may be made under this section for care*
16 *and services that are furnished to an alien described*
17 *in paragraph (1) only if—*

18 “(A) *such care and services are necessary*
19 *for the treatment of an emergency medical condi-*
20 *tion of the alien,*

21 “(B) *such alien otherwise meets the eligi-*
22 *bility requirements for medical assistance under*
23 *the MediGrant plan (other than a requirement of*
24 *the receipt of aid or assistance under title IV,*

1 *supplemental security income benefits under title*
2 *XVI, or a State supplementary payment), and*

3 “(C) *such care and services are not related*
4 *to an organ transplant procedure.*

5 “(3) *EMERGENCY MEDICAL CONDITION DE-*
6 *FINED.—For purposes of this subsection, the term*
7 *‘emergency medical condition’ means a medical con-*
8 *dition (including emergency labor and delivery)*
9 *manifesting itself by acute symptoms of sufficient se-*
10 *verity (including severe pain) such that the absence of*
11 *immediate medical attention could reasonably be ex-*
12 *pected to result in—*

13 “(A) *placing the patient’s health in serious*
14 *jeopardy,*

15 “(B) *serious impairment to bodily func-*
16 *tions, or*

17 “(C) *serious dysfunction of any bodily*
18 *organ or part.*

19 “(g) *LIMITATION ON PAYMENT FOR CERTAIN OUT-*
20 *PATIENT PRESCRIPTION DRUGS.—*

21 “(1) *IN GENERAL.—No payment may be made to*
22 *a State under this part for medical assistance for cov-*
23 *ered outpatient drugs (as defined in section*
24 *2175(i)(2)) of a manufacturer provided under the*

1 *MediGrant plan unless the manufacturer (as defined*
2 *in section 2175(i)(4)) of the drug—*

3 *“(A) has entered into a MediGrant master*
4 *rebate agreement with the Secretary under sec-*
5 *tion 2175,*

6 *“(B) is otherwise complying with the provi-*
7 *sions of such section,*

8 *“(C) is complying with the provisions of*
9 *section 8126 of title 38, United States Code, in-*
10 *cluding the requirement of entering into a mas-*
11 *ter agreement with the Secretary of Veterans Af-*
12 *airs under such section, and*

13 *“(D) subject to paragraph (4), is complying*
14 *with the provisions of section 340B of the Public*
15 *Health Service Act, including the requirement of*
16 *entering into an agreement with the Secretary*
17 *under such section.*

18 *“(2) CONSTRUCTION.—Nothing in this subsection*
19 *shall be construed as requiring a State to participate*
20 *in the MediGrant master rebate agreement under sec-*
21 *tion 2175.*

22 *“(3) EFFECT OF SUBSEQUENT AMENDMENTS.—*
23 *For purposes of subparagraphs (C) and (D), in deter-*
24 *mining whether a manufacturer is in compliance*
25 *with the requirements of section 8126 of title 38,*

1 *United States Code, or section 340B of the Public*
2 *Health Service Act—*

3 *“(A) the Secretary shall not take into ac-*
4 *count any amendments to such sections that are*
5 *enacted after the enactment of title VI of the Vet-*
6 *erans Health Care Act of 1992, and*

7 *“(B) a manufacturer is deemed to meet such*
8 *requirements if the manufacturer establishes to*
9 *the satisfaction of the Secretary that the manu-*
10 *facturer would comply (and has offered to com-*
11 *ply) with the provisions of such sections (as in*
12 *effect immediately after the enactment of the Vet-*
13 *erans Health Care Act of 1992) and would have*
14 *entered into an agreement under such section (as*
15 *such section was in effect at such time), but for*
16 *a legislative change in such section after the date*
17 *of the enactment of the Veterans Health Care Act*
18 *of 1992.*

19 *“(4) EFFECT OF ESTABLISHMENT OF ALTER-*
20 *NATIVE MECHANISM UNDER PUBLIC HEALTH SERVICE*
21 *ACT.—If the Secretary does not establish a mechanism*
22 *to ensure against duplicate discounts or rebates under*
23 *section 340B(a)(5)(A) of the Public Health Service*
24 *Act within 12 months of the date of the enactment of*
25 *such section, the following requirements shall apply:*

1 “(A) *Each covered entity under such section*
2 *shall inform the State when it is seeking reim-*
3 *bursement from the MediGrant plan for medical*
4 *assistance with respect to a unit of any covered*
5 *outpatient drug which is subject to an agreement*
6 *under section 340B(a) of such Act.*

7 “(B) *Each such State shall provide a means*
8 *by which such an entity shall indicate on any*
9 *drug reimbursement claims form (or format,*
10 *where electronic claims management is used)*
11 *that a unit of the drug that is the subject of the*
12 *form is subject to an agreement under section*
13 *340B of such Act, and not submit to any manu-*
14 *facturer a claim for a rebate payment with re-*
15 *spect to such a drug.*

16 “*PART D—PROGRAM INTEGRITY AND QUALITY*

17 “***SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.***

18 “(a) *FINANCIAL AUDITS OF PROGRAM.—*

19 “(1) *IN GENERAL.—Each MediGrant plan shall*
20 *provide for an annual audit of the State’s expendi-*
21 *tures from amounts received under this title, in com-*
22 *pliance with chapter 75 of title 31, United States*
23 *Code.*

24 “(2) *VERIFICATION AUDITS.—If, after consulta-*
25 *tion with the State and the Comptroller General and*

1 *after a fair hearing, the Secretary determines that a*
2 *State’s audit under paragraph (1) was performed in*
3 *substantial violation of chapter 75 of title 31, United*
4 *States Code, the Secretary may—*

5 *“(A) require that the State provide for a*
6 *verification audit in compliance with such chap-*
7 *ter, or*

8 *“(B) conduct such a verification audit.*

9 *“(3) AVAILABILITY OF AUDIT REPORTS.—Within*
10 *30 days after completion of each audit or verification*
11 *audit under this subsection, the State shall—*

12 *“(A) provide the Secretary with a copy of*
13 *the audit report, including the State’s response*
14 *to any recommendations of the auditor, and*

15 *“(B) make the audit report available for*
16 *public inspection in the same manner as pro-*
17 *posed MediGrant plan amendments are made*
18 *available under section 2105.*

19 *“(b) FISCAL CONTROLS.—*

20 *“(1) IN GENERAL.—With respect to the account-*
21 *ing and expenditure of funds under this title, each*
22 *State shall adopt and maintain such fiscal controls,*
23 *accounting procedures, and data processing safe-*
24 *guards as the State deems reasonably necessary to as-*

1 *sure the fiscal integrity of the State’s activities under*
2 *this title.*

3 “(2) *CONSISTENCY WITH GENERALLY ACCEPTED*
4 *ACCOUNTING PRINCIPLES.—Such controls and proce-*
5 *dures shall be generally consistent with generally ac-*
6 *cepted accounting principles as recognized by the*
7 *Governmental Accounting Standards Board or the*
8 *Comptroller General.*

9 “(c) *AUDITS OF PROVIDERS.—Each MediGrant plan*
10 *shall provide that the records of any entity providing items*
11 *or services for which payment may be made under the plan*
12 *may be audited as necessary to ensure that proper pay-*
13 *ments are made under the plan.*

14 **“SEC. 2132. FRAUD PREVENTION PROGRAM.**

15 “(a) *ESTABLISHMENT.—Each MediGrant plan shall*
16 *provide for the establishment and maintenance of an effec-*
17 *tive program for the detection and prevention of fraud and*
18 *abuse by beneficiaries, providers, and others in connection*
19 *with the operation of the program.*

20 “(b) *PROGRAM REQUIREMENTS.—The program estab-*
21 *lished pursuant to subsection (a) shall include at least the*
22 *following requirements:*

23 “(1) *DISCLOSURE OF INFORMATION.—Any dis-*
24 *closing entity (as defined in section 1124(a)) receiv-*

1 *ing payments under the MediGrant plan shall comply*
2 *with the requirements of section 1124.*

3 “(2) *SUPPLY OF INFORMATION.—An entity*
4 *(other than an individual practitioner or a group of*
5 *practitioners) that furnishes, or arranges for the fur-*
6 *nishing of, an item or service under the MediGrant*
7 *plan shall supply upon request specifically addressed*
8 *to the entity by the Secretary or the State agency the*
9 *information described in section 1128(b)(9).*

10 “(3) *EXCLUSION.—*

11 “(A) *IN GENERAL.—The MediGrant plan*
12 *shall exclude any specified individual or entity*
13 *from participation in the plan for the period*
14 *specified by the Secretary when required by the*
15 *Secretary to do so pursuant to section 1128 or*
16 *section 1128A, and provide that no payment*
17 *may be made under the plan with respect to any*
18 *item or service furnished by such individual or*
19 *entity during such period.*

20 “(B) *AUTHORITY.—In addition to any*
21 *other authority, a State may exclude any indi-*
22 *vidual or entity for purposes of participating*
23 *under the MediGrant plan for any reason for*
24 *which the Secretary could exclude the individual*
25 *or entity from participation in a program under*

1 *title XVIII or under section 1128, 1128A, or*
2 *1866(b)(2).*

3 “(4) *NOTICE.—The MediGrant plan shall pro-*
4 *vide that whenever a provider of services or any other*
5 *person is terminated, suspended, or otherwise sanc-*
6 *tioned or prohibited from participating under the*
7 *plan, the State agency responsible for administering*
8 *the plan shall promptly notify the Secretary and, in*
9 *the case of a physician, the State medical licensing*
10 *board of such action.*

11 “(5) *ACCESS TO INFORMATION.—The MediGrant*
12 *plan shall provide that the State will provide infor-*
13 *mation and access to certain information respecting*
14 *sanctions taken against health care practitioners and*
15 *providers by State licensing authorities in accordance*
16 *with section 2133.*

17 **“SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN**
18 **BY STATE LICENSING AUTHORITIES AGAINST**
19 **HEALTH CARE PRACTITIONERS AND PROVID-**
20 **ERS.**

21 “(a) *INFORMATION REPORTING REQUIREMENT.—The*
22 *requirement referred to in section 2132(b)(5) is that the*
23 *State must provide for the following:*

24 “(1) *INFORMATION REPORTING SYSTEM.—The*
25 *State must have in effect a system of reporting the*

1 following information with respect to formal proceed-
2 ings (as defined by the Secretary in regulations) con-
3 cluded against a health care practitioner or entity by
4 any authority of the State (or of a political subdivi-
5 sion thereof) responsible for the licensing of health
6 care practitioners (or any peer review organization or
7 private accreditation entity reviewing the services
8 provided by health care practitioners) or entities:

9 “(A) Any adverse action taken by such li-
10 censing authority as a result of the proceeding,
11 including any revocation or suspension of a li-
12 cense (and the length of any such suspension),
13 reprimand, censure, or probation.

14 “(B) Any dismissal or closure of the pro-
15 ceedings by reason of the practitioner or entity
16 surrendering the license or leaving the State or
17 jurisdiction.

18 “(C) Any other loss of the license of the
19 practitioner or entity, whether by operation of
20 law, voluntary surrender, or otherwise.

21 “(D) Any negative action or finding by
22 such authority, organization, or entity regarding
23 the practitioner or entity.

24 “(2) ACCESS TO DOCUMENTS.—The State must
25 provide the Secretary (or an entity designated by the

1 *Secretary) with access to such documents of the au-*
2 *thority described in paragraph (1) as may be nec-*
3 *essary for the Secretary to determine the facts and*
4 *circumstances concerning the actions and determina-*
5 *tions described in such paragraph for the purpose of*
6 *carrying out this Act.*

7 *“(b) FORM OF INFORMATION.—The information de-*
8 *scribed in subsection (a)(1) shall be provided to the Sec-*
9 *retary (or to an appropriate private or public agency,*
10 *under suitable arrangements made by the Secretary with*
11 *respect to receipt, storage, protection of confidentiality, and*
12 *dissemination of information) in such a form and manner*
13 *as the Secretary determines to be appropriate in order to*
14 *provide for activities of the Secretary under this Act and*
15 *in order to provide, directly or through suitable arrange-*
16 *ments made by the Secretary, information—*

17 *“(1) to agencies administering Federal health*
18 *care programs, including private entities administer-*
19 *ing such programs under contract,*

20 *“(2) to licensing authorities described in sub-*
21 *section (a)(1),*

22 *“(3) to State agencies administering or super-*
23 *vising the administration of State health care pro-*
24 *grams (as defined in section 1128(h)),*

1 “(4) to utilization and quality control peer re-
2 view organizations described in part B of title XI and
3 to appropriate entities with contracts under section
4 1154(a)(4)(C) with respect to eligible organizations
5 reviewed under the contracts,

6 “(5) to State MediGrant fraud control units (as
7 defined in section 2134),

8 “(6) to hospitals and other health care entities
9 (as defined in section 431 of the Health Care Quality
10 Improvement Act of 1986), with respect to physicians
11 or other licensed health care practitioners that have
12 entered (or may be entering) into an employment or
13 affiliation relationship with, or have applied for clin-
14 ical privileges or appointments to the medical staff of,
15 such hospitals or other health care entities (and such
16 information shall be deemed to be disclosed pursuant
17 to section 427 of, and be subject to the provisions of,
18 that Act),

19 “(7) to the Attorney General and such other law
20 enforcement officials as the Secretary deems appro-
21 priate, and

22 “(8) upon request, to the Comptroller General,
23 in order for such authorities to determine the fitness
24 of individuals to provide health care services, to pro-
25 tect the health and safety of individuals receiving

1 *health care through such programs, and to protect the*
2 *fiscal integrity of such programs.*

3 “(c) *CONFIDENTIALITY OF INFORMATION PROVIDED.*—
4 *The Secretary shall provide for suitable safeguards for the*
5 *confidentiality of the information furnished under sub-*
6 *section (a). Nothing in this subsection shall prevent the dis-*
7 *closure of such information by a party which is otherwise*
8 *authorized, under applicable State law, to make such disclo-*
9 *sure.*

10 “(d) *APPROPRIATE COORDINATION.*—*The Secretary*
11 *shall provide for the maximum appropriate coordination*
12 *in the implementation of subsection (a) of this section and*
13 *section 422 of the Health Care Quality Improvement Act*
14 *of 1986 and section 1128E.*

15 **“SEC. 2134. STATE MEDIGRANT FRAUD CONTROL UNITS.**

16 “(a) *IN GENERAL.*—*Each MediGrant plan shall pro-*
17 *vide for a State MediGrant fraud control unit described in*
18 *subsection (b) that effectively carries out the functions and*
19 *requirements described in such subsection, unless the State*
20 *demonstrates to the satisfaction of the Secretary that the*
21 *effective operation of such a unit in the State would not*
22 *be cost-effective because minimal fraud exists in connection*
23 *with the provision of covered services to eligible individuals*
24 *under the plan, and that beneficiaries under the plan will*
25 *be protected from abuse and neglect in connection with the*

1 *provision of medical assistance under the plan without the*
2 *existence of such a unit.*

3 “(b) *UNITS DESCRIBED.*—*For purposes of this section,*
4 *the term ‘State MediGrant fraud control unit’ means a sin-*
5 *gle identifiable entity of the State government which meets*
6 *the following requirements:*

7 “(1) *ORGANIZATION.*—*The entity—*

8 “(A) *is a unit of the office of the State At-*
9 *torney General or of another department of State*
10 *government which possesses statewide authority*
11 *to prosecute individuals for criminal violations;*

12 “(B) *is in a State the constitution of which*
13 *does not provide for the criminal prosecution of*
14 *individuals by a statewide authority and has*
15 *formal procedures that—*

16 “(i) *assure its referral of suspected*
17 *criminal violations relating to the program*
18 *under this title to the appropriate authority*
19 *or authorities in the State for prosecution,*
20 *and*

21 “(ii) *assure its assistance of, and co-*
22 *ordination with, such authority or authori-*
23 *ties in such prosecutions; or*

24 “(C) *has a formal working relationship*
25 *with the office of the State Attorney General and*

1 *has formal procedures (including procedures for*
2 *its referral of suspected criminal violations to*
3 *such office) which provide effective coordination*
4 *of activities between the entity and such office*
5 *with respect to the detection, investigation, and*
6 *prosecution of suspected criminal violations re-*
7 *lating to the program under this title.*

8 “(2) *INDEPENDENCE.*—*The entity is separate*
9 *and distinct from any State agency that has prin-*
10 *cipal responsibilities for administering or supervising*
11 *the administration of the MediGrant plan.*

12 “(3) *FUNCTION.*—*The entity’s function is con-*
13 *ducting a statewide program for the investigation and*
14 *prosecution of violations of all applicable State laws*
15 *regarding any and all aspects of fraud in connection*
16 *with any aspect of the provision of medical assistance*
17 *and the activities of providers of such assistance*
18 *under the MediGrant plan.*

19 “(4) *REVIEW OF COMPLAINTS.*—*The entity has*
20 *procedures for reviewing complaints of the abuse and*
21 *neglect of patients of health care facilities which re-*
22 *ceive payments under the MediGrant plan under this*
23 *title, and, where appropriate, for acting upon such*
24 *complaints under the criminal laws of the State or*
25 *for referring them to other State agencies for action.*

1 “(5) *OVERPAYMENTS.*—

2 “(A) *IN GENERAL.*—*The entity provides for*
3 *the collection, or referral for collection to a single*
4 *State agency, of overpayments that are made*
5 *under the MediGrant plan to health care provid-*
6 *ers and that are discovered by the entity in car-*
7 *rying out its activities.*

8 “(B) *TREATMENT OF CERTAIN OVERPAY-*
9 *MENTS.*—*If an overpayment is the direct result*
10 *of the failure of the provider (or the provider’s*
11 *billing agent) to adhere to a change in the*
12 *State’s billing instructions, the entity may re-*
13 *cover the overpayment only if the entity dem-*
14 *onstrates that the provider (or the provider’s bill-*
15 *ing agent) received prior written or electronic*
16 *notice of the change in the billing instructions*
17 *before the submission of the claims on which the*
18 *overpayment is based.*

19 “(6) *PERSONNEL.*—*The entity employs such*
20 *auditors, attorneys, investigators, and other necessary*
21 *personnel and is organized in such a manner as is*
22 *necessary to promote the effective and efficient con-*
23 *duct of the entity’s activities.*

1 **“SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTH-**
2 **ERS.**

3 “(a) *THIRD PARTY LIABILITY.*—Each MediGrant plan
4 shall provide for reasonable steps—

5 “(1) to ascertain the legal liability of third par-
6 ties to pay for care and services available under the
7 plan, including the collection of sufficient information
8 to enable States to pursue claims against third par-
9 ties, and

10 “(2) to seek reimbursement for medical assist-
11 ance provided to the extent legal liability is estab-
12 lished where the amount expected to be recovered ex-
13 ceeds the costs of the recovery.

14 “(b) *BENEFICIARY PROTECTION.*—

15 “(1) *IN GENERAL.*—Each MediGrant plan shall
16 provide that in the case of a person furnishing serv-
17 ices under the plan for which a third party may be
18 liable for payment—

19 “(A) the person may not seek to collect from
20 the individual (or financially responsible rel-
21 ative) payment of an amount for the service
22 more than could be collected under the plan in
23 the absence of such third party liability, and

24 “(B) may not refuse to furnish services to
25 such an individual because of a third party’s po-
26 tential liability for payment for the service.

1 “(2) *PENALTY.*—*A MediGrant plan may provide*
2 *for a reduction of any payment amount otherwise due*
3 *with respect to a person who furnishes services under*
4 *the plan in an amount equal to up to 3 times the*
5 *amount of any payment sought to be collected by that*
6 *person in violation of paragraph (1)(A).*

7 “(c) *GENERAL LIABILITY.*—*The State shall prohibit*
8 *any health insurer, including a group health plan as de-*
9 *fin ed in section 607 of the Employee Retirement Income*
10 *Security Act of 1974, a service benefit plan, or a health*
11 *maintenance organization, in enrolling an individual or in*
12 *making any payments for benefits to the individual or on*
13 *the individual’s behalf, from taking into account that the*
14 *individual is eligible for or is provided medical assistance*
15 *under a MediGrant plan for any State.*

16 “(d) *ACQUISITION OF RIGHTS OF BENEFICIARIES.*—
17 *To the extent that payment has been made under a*
18 *MediGrant plan in any case where a third party has a*
19 *legal liability to make payment for such assistance, the*
20 *State shall have in effect laws under which, to the extent*
21 *that payment has been made under the plan for health care*
22 *items or services furnished to an individual, the State is*
23 *considered to have acquired the rights of such individual*
24 *to payment by any other party for such health care items*
25 *or services.*

1 “(e) *ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.*—
2 *The MediGrant plan shall provide for mandatory assign-*
3 *ment of rights of payment for medical support and other*
4 *medical care owed to recipients in accordance with section*
5 *2136.*

6 “(f) *REQUIRED LAWS RELATING TO MEDICAL CHILD*
7 *SUPPORT.*—

8 “(1) *IN GENERAL.*—*Each State with a*
9 *MediGrant plan shall have in effect the following*
10 *laws:*

11 “(A) *A law that prohibits an insurer from*
12 *denying enrollment of a child under the health*
13 *coverage of the child’s parent on the ground*
14 *that—*

15 “(i) *the child was born out of wedlock,*

16 “(ii) *the child is not claimed as a de-*
17 *pendent on the parent’s Federal income tax*
18 *return, or*

19 “(iii) *the child does not reside with the*
20 *parent or in the insurer’s service area.*

21 “(B) *In any case in which a parent is re-*
22 *quired by a court or administrative order to pro-*
23 *vide health coverage for a child and the parent*
24 *is eligible for family health coverage through an*
25 *insurer, a law that requires such insurer—*

1 “(i) to permit such parent to enroll
2 under such family coverage any such child
3 who is otherwise eligible for such coverage
4 (without regard to any enrollment season
5 restrictions);

6 “(ii) if such a parent is enrolled but
7 fails to make application to obtain coverage
8 of such child, to enroll such child under
9 such family coverage upon application by
10 the child’s other parent or by the State
11 agency administering the program under
12 this title or part D of title IV; and

13 “(iii) not to disenroll, or eliminate cov-
14 erage of, such a child unless the insurer is
15 provided satisfactory written evidence
16 that—

17 “(I) such court or administrative
18 order is no longer in effect, or

19 “(II) the child is or will be en-
20 rolled in comparable health coverage
21 through another insurer which will
22 take effect not later than the effective
23 date of such disenrollment.

24 “(C) In any case in which a parent is re-
25 quired by a court or administrative order to pro-

1 *vide health coverage for a child and the parent*
2 *is eligible for family health coverage through an*
3 *employer doing business in the State, a law that*
4 *requires such employer—*

5 “(i) to permit such parent to enroll
6 under such family coverage any such child
7 who is otherwise eligible for such coverage
8 (without regard to any enrollment season
9 restrictions);

10 “(ii) if such a parent is enrolled but
11 fails to make application to obtain coverage
12 of such child, to enroll such child under
13 such family coverage upon application by
14 the child’s other parent or by the State
15 agency administering the program under
16 this title or part D of title IV; and

17 “(iii) not to disenroll (or eliminate
18 coverage of) any such child unless—

19 “(I) the employer is provided sat-
20 isfactory written evidence that such
21 court or administrative order is no
22 longer in effect, or the child is or will
23 be enrolled in comparable health cov-
24 erage which will take effect not later

1 *than the effective date of such*
2 *disenrollment, or*

3 *“(II) the employer has eliminated*
4 *family health coverage for all of its em-*
5 *ployees; and*

6 *“(iv) to withhold from such employee’s*
7 *compensation the employee’s share (if any)*
8 *of premiums for health coverage (except that*
9 *the amount so withheld may not exceed the*
10 *maximum amount permitted to be withheld*
11 *under section 303(b) of the Consumer Credit*
12 *Protection Act), and to pay such share of*
13 *premiums to the insurer, except that the*
14 *Secretary may provide by regulation for ap-*
15 *propriate circumstances under which an*
16 *employer may withhold less than such em-*
17 *ployee’s share of such premiums.*

18 *“(D) A law that prohibits an insurer from*
19 *imposing requirements on a State agency, which*
20 *has been assigned the rights of an individual eli-*
21 *gible for medical assistance under this title and*
22 *covered for health benefits from the insurer, that*
23 *are different from requirements applicable to an*
24 *agent or assignee of any other individual so cov-*
25 *ered.*

1 “(E) A law that requires an insurer, in any
2 case in which a child has health coverage through
3 the insurer of a noncustodial parent—

4 “(i) to provide such information to the
5 custodial parent as may be necessary for the
6 child to obtain benefits through such cov-
7 erage,

8 “(ii) to permit the custodial parent (or
9 provider, with the custodial parent’s ap-
10 proval) to submit claims for covered services
11 without the approval of the noncustodial
12 parent, and

13 “(iii) to make payment on claims sub-
14 mitted in accordance with clause (ii) di-
15 rectly to such custodial parent, the provider,
16 or the State agency.

17 “(F) A law that permits the State agency
18 under this title to garnish the wages, salary, or
19 other employment income of, and requires with-
20 holding amounts from State tax refunds to, any
21 person who—

22 “(i) is required by court or adminis-
23 trative order to provide coverage of the costs
24 of health services to a child who is eligible
25 for medical assistance under this title,

1 “(ii) has received payment from a
2 third party for the costs of such services to
3 such child, but

4 “(iii) has not used such payments to
5 reimburse, as appropriate, either the other
6 parent or guardian of such child or the pro-
7 vider of such services,

8 to the extent necessary to reimburse the State
9 agency for expenditures for such costs under its
10 plan under this title, but any claims for current
11 or past-due child support shall take priority over
12 any such claims for the costs of such services.

13 “(2) *DEFINITION.*—For purposes of this sub-
14 section, the term ‘insurer’ includes a group health
15 plan, as defined in section 607(1) of the Employee
16 Retirement Income Security Act of 1974, a health
17 maintenance organization, and an entity offering a
18 service benefit plan.

19 “(g) *ESTATE RECOVERIES AND LIENS PERMITTED.*—
20 A State may take such actions as it considers appropriate
21 to adjust or recover from the individual or the individual’s
22 estate any amounts paid as medical assistance to or on be-
23 half of the individual under the MediGrant plan, including
24 through the imposition of liens against the property or es-
25 tate of the individual.

1 **“SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.**

2 “(a) *IN GENERAL.*—*For the purpose of assisting in the*
3 *collection of medical support payments and other payments*
4 *for medical care owed to recipients of medical assistance*
5 *under the MediGrant plan, each MediGrant plan shall—*

6 “(1) *provide that, as a condition of eligibility for*
7 *medical assistance under the plan to an individual*
8 *who has the legal capacity to execute an assignment*
9 *for himself, the individual is required—*

10 “(A) *to assign the State any rights, of the*
11 *individual or of any other person who is eligible*
12 *for medical assistance under the plan and on*
13 *whose behalf the individual has the legal author-*
14 *ity to execute an assignment of such rights, to*
15 *support (specified as support for the purpose of*
16 *medical care by a court or administrative order)*
17 *and to payment for medical care from any third*
18 *party,*

19 “(B) *to cooperate with the State (i) in es-*
20 *tablishing the paternity of such person (referred*
21 *to in subparagraph (A)) if the person is a child*
22 *born out of wedlock, and (ii) in obtaining sup-*
23 *port and payments (described in subparagraph*
24 *(A)) for himself and for such person, unless (in*
25 *either case) the individual is a pregnant woman*
26 *or the individual is found to have good cause for*

1 *refusing to cooperate as determined by the State,*
2 *and*

3 “(C) *to cooperate with the State in identify-*
4 *ing, and providing information to assist the*
5 *State in pursuing, any third party who may be*
6 *liable to pay for care and services available*
7 *under the plan, unless such individual has good*
8 *cause for refusing to cooperate as determined by*
9 *the State; and*

10 “(2) *provide for entering into cooperative ar-*
11 *rangements, including financial arrangements, with*
12 *any appropriate agency of any State (including, with*
13 *respect to the enforcement and collection of rights of*
14 *payment for medical care by or through a parent,*
15 *with a State’s agency established or designated under*
16 *section 454(3)) and with appropriate courts and law*
17 *enforcement officials, to assist the agency or agencies*
18 *administering the plan with respect to—*

19 “(A) *the enforcement and collection of rights*
20 *to support or payment assigned under this sec-*
21 *tion, and*

22 “(B) *any other matters of common concern.*

23 “(b) *USE OF AMOUNTS COLLECTED.—Such part of*
24 *any amount collected by the State under an assignment*
25 *made under the provisions of this section shall be retained*

1 *by the State as is necessary to reimburse it for medical as-*
2 *sistance payments made on behalf of an individual with*
3 *respect to whom such assignment was executed (with appro-*
4 *prate reimbursement of the Federal Government to the ex-*
5 *tent of its participation in the financing of such medical*
6 *assistance), and the remainder of such amount collected*
7 *shall be paid to such individual.*

8 **“SEC. 2137. QUALITY ASSURANCE REQUIREMENTS FOR**
9 **NURSING FACILITIES.**

10 *“(a) NURSING FACILITY DEFINED.—In this title, the*
11 *term ‘nursing facility’ means an institution (or a distinct*
12 *part of an institution) which—*

13 *“(1) is primarily engaged in providing to resi-*
14 *dents—*

15 *“(A) skilled nursing care and related serv-*
16 *ices for residents who require medical or nursing*
17 *care,*

18 *“(B) rehabilitation services for the rehabili-*
19 *tation of injured, disabled, or sick persons, or*

20 *“(C) on a regular basis, health-related care*
21 *and services to individuals who because of their*
22 *mental or physical condition require care and*
23 *services (above the level of room and board)*
24 *which can be made available to them only*
25 *through institutional facilities,*

1 *and is not primarily for the care and treatment of*
2 *mental diseases;*

3 “(2) *has in effect a transfer agreement (meeting*
4 *the requirements of section 1861(l)) with one or more*
5 *hospitals having agreements in effect under section*
6 *1866; and*

7 “(3) *meets the requirements for a nursing facil-*
8 *ity described in subsections (b), (c), and (d) of this*
9 *section.*

10 *Such term also includes any facility which is located in*
11 *a State on an Indian reservation and is certified by the*
12 *Secretary as meeting the requirements of paragraph (1) and*
13 *subsections (b), (c), and (d).*

14 “(b) *REQUIREMENTS RELATING TO PROVISION OF*
15 *SERVICES.—*

16 “(1) *QUALITY OF LIFE.—*

17 “(A) *IN GENERAL.—A nursing facility must*
18 *care for its residents in such a manner and in*
19 *such an environment as will reasonably promote*
20 *maintenance or enhancement of the quality of*
21 *life of each resident.*

22 “(B) *QUALITY ASSESSMENT AND ASSUR-*
23 *ANCE.—A nursing facility must maintain a*
24 *quality assessment and assurance committee,*
25 *consisting of the director of nursing services, a*

1 *physician designated by the facility, and at least*
2 *3 other members of the facility's staff, which (i)*
3 *meets at least quarterly to identify issues with*
4 *respect to which quality assessment and assur-*
5 *ance activities are necessary and (ii) develops*
6 *and implements appropriate plans of action to*
7 *correct identified quality deficiencies. A State or*
8 *the Secretary may not require disclosure of the*
9 *records of such committee except insofar as such*
10 *disclosure is related to the compliance of such*
11 *committee with the requirements of this subpara-*
12 *graph.*

13 *“(2) SCOPE OF SERVICES AND ACTIVITIES UNDER*
14 *PLAN OF CARE.—A nursing facility must provide*
15 *services and activities in accordance with a written*
16 *plan of care which—*

17 *“(A) describes the medical, nursing, and*
18 *psychosocial needs of the resident and how such*
19 *needs will be met;*

20 *“(B) is initially prepared, with the partici-*
21 *ipation to the extent practicable of the resident or*
22 *the resident's family or legal representative, by a*
23 *team which includes the resident's attending*
24 *physician and a registered professional nurse*
25 *with responsibility for the resident; and*

1 “(C) is periodically reviewed and revised by
2 such team after each assessment under para-
3 graph (3).

4 “(3) RESIDENTS’ ASSESSMENT.—

5 “(A) REQUIREMENT.—A nursing facility
6 must conduct a comprehensive, accurate, stand-
7 arized, reproducible assessment of each resi-
8 dent’s functional capacity, which assessment—

9 “(i) describes the resident’s capability
10 to perform daily life functions and signifi-
11 cant impairments in functional capacity;

12 “(ii) uses an instrument which is spec-
13 ified by the State under subsection (e)(5);
14 and

15 “(iii) includes the identification of
16 medical problems.

17 “(B) CERTIFICATION.—

18 “(i) IN GENERAL.—Each such assess-
19 ment must be conducted or coordinated
20 (with the appropriate participation of
21 health professionals) by a registered profes-
22 sional nurse who signs and certifies the
23 completion of the assessment. Each individ-
24 ual who completes a portion of such an as-

1 *assessment shall sign and certify as to the ac-*
2 *curacy of that portion of the assessment.*

3 “(ii) *PENALTY FOR FALSIFICATION.—*

4 *“(I) An individual who willfully*
5 *and knowingly certifies under clause*
6 *(i) a material and false statement in a*
7 *resident assessment is subject to a civil*
8 *money penalty of not more than*
9 *\$1,000 with respect to each assessment.*

10 *“(II) An individual who willfully*
11 *and knowingly causes another individ-*
12 *ual to certify under clause (i) a mate-*
13 *rial and false statement in a resident*
14 *assessment is subject to a civil money*
15 *penalty of not more than \$5,000 with*
16 *respect to each assessment.*

17 *“(III) The provisions of section*
18 *1128A (other than subsections (a) and*
19 *(b)) shall apply to a civil money pen-*
20 *alty under this clause in the same*
21 *manner as such provisions apply to a*
22 *penalty or proceeding under section*
23 *1128A(a).*

24 “(iii) *USE OF INDEPENDENT ASSES-*
25 *SORS.—If a State determines, under a sur-*

1 *vey under subsection (g) or otherwise, that*
2 *there has been a knowing and willful certifi-*
3 *cation of false assessments under this para-*
4 *graph, the State may require (for a period*
5 *specified by the State) that resident assess-*
6 *ments under this paragraph be conducted*
7 *and certified by individuals who are inde-*
8 *pendent of the facility and who are ap-*
9 *proved by the State.*

10 *“(C) FREQUENCY.—*

11 *“(i) IN GENERAL.—Such an assessment*
12 *must be conducted—*

13 *“(I) promptly upon (but no later*
14 *than 14 days after the date of) admis-*
15 *sion for each individual admitted;*

16 *“(II) promptly after a significant*
17 *change in the resident’s physical or*
18 *mental condition; and*

19 *“(III) in no case less often than*
20 *once every 12 months.*

21 *“(ii) RESIDENT REVIEW.—The nursing*
22 *facility must examine each resident no less*
23 *frequently than once every 3 months and, as*
24 *appropriate, revise the resident’s assessment*

1 to assure the continuing accuracy of the as-
2 sessment.

3 “(D) *USE.*—*The results of such an assess-*
4 *ment shall be used in developing, reviewing, and*
5 *revising the resident’s plan of care under para-*
6 *graph (2).*

7 “(E) *COORDINATION.*—*Such assessments*
8 *shall be coordinated with any State-required*
9 *preadmission screening program to the maxi-*
10 *mum extent practicable in order to avoid dupli-*
11 *cative testing and effort. In addition, a nursing*
12 *facility shall notify the State mental health au-*
13 *thority or State mental retardation or devel-*
14 *opmental disability authority, as applicable,*
15 *promptly after a significant change in the phys-*
16 *ical or mental condition of a resident who is*
17 *mentally ill or mentally retarded.*

18 “(4) *PROVISION OF SERVICES AND ACTIVITIES.*—

19 “(A) *IN GENERAL.*—*To the extent needed to*
20 *fulfill all plans of care described in paragraph*
21 *(2), a nursing facility must provide (or arrange*
22 *for the provision of)—*

23 “(i) *nursing and related services and*
24 *specialized rehabilitative services;*

1 “(ii) medically-related social services
2 to attain or maintain the highest prac-
3 ticable physical, mental, and psychosocial
4 well-being of residents;

5 “(iii) pharmaceutical services (includ-
6 ing procedures that assure the accurate ac-
7 quiring, receiving, dispensing, and admin-
8 istering of all drugs and biologicals) to meet
9 the needs of residents;

10 “(iv) dietary services that assure that
11 the meals meet the daily nutritional and
12 special dietary needs of residents;

13 “(v) an on-going program, directed by
14 a qualified professional, of activities de-
15 signed to meet the interests and the phys-
16 ical, mental, and psychosocial well-being of
17 residents; and

18 “(vi) routine dental services (to the ex-
19 tent covered under the State MediGrant
20 plan) and emergency dental services to meet
21 the needs of residents.

22 *The services provided or arranged by the facility*
23 *must meet professional standards of quality.*

24 “(B) QUALIFIED PERSONS PROVIDING SERV-
25 ICES.—Services described in clauses (i), (ii),

1 *(iii), (iv), and (vi) of subparagraph (A) must be*
2 *provided by qualified persons in accordance with*
3 *each resident's written plan of care.*

4 “(C) *REQUIRED NURSING CARE; FACILITY*
5 *WAIVERS.—*

6 “(i) *GENERAL REQUIREMENTS.—A*
7 *nursing facility—*

8 “(I) *except as provided in clause*
9 *(ii), must provide 24-hour licensed*
10 *nursing services which are sufficient to*
11 *meet the nursing needs of its residents,*
12 *and*

13 “(II) *except as provided in clause*
14 *(ii), must use the services of a reg-*
15 *istered professional nurse for at least 8*
16 *consecutive hours a day, 7 days a*
17 *week.*

18 “(ii) *WAIVER BY STATE.—To the extent*
19 *that a facility is unable to meet the require-*
20 *ments of clause (i), a State may waive such*
21 *requirements with respect to the facility*
22 *if—*

23 “(I) *the facility demonstrates to*
24 *the satisfaction of the State that the fa-*
25 *cility has been unable, despite diligent*

1 *efforts (including offering wages at the*
2 *community prevailing rate for nursing*
3 *facilities), to recruit appropriate per-*
4 *sonnel,*

5 *“(II) the State determines that a*
6 *waiver of the requirement will not en-*
7 *danger the health or safety of individ-*
8 *uals staying in the facility,*

9 *“(III) the State finds that, for*
10 *any such periods in which licensed*
11 *nursing services are not available, a*
12 *registered professional nurse or a phy-*
13 *sician is obligated to respond imme-*
14 *diately to telephone calls from the fa-*
15 *cility,*

16 *“(IV) the State agency granting a*
17 *waiver of such requirements provides*
18 *notice of the waiver to the State long-*
19 *term care ombudsman (established*
20 *under section 307(a)(12) of the Older*
21 *Americans Act of 1965) and the protec-*
22 *tion and advocacy system in the State*
23 *for the mentally ill and the mentally*
24 *retarded, and*

1 “(V) *the nursing facility that is*
2 *granted such a waiver by a State noti-*
3 *fies residents of the facility (or, where*
4 *appropriate, the guardians or legal*
5 *representatives of such residents) and*
6 *members of their immediate families of*
7 *the waiver.*

8 *A waiver under this clause shall be subject*
9 *to annual review and to the review of the*
10 *Secretary and subject to clause (iii) shall be*
11 *accepted by the Secretary for purposes of*
12 *this title to the same extent as is the State’s*
13 *certification of the facility. In granting or*
14 *renewing a waiver, a State may require the*
15 *facility to use other qualified, licensed per-*
16 *sonnel.*

17 “(iii) *ASSUMPTION OF WAIVER AU-*
18 *THORITY BY SECRETARY.—If the Secretary*
19 *determines that a State has shown a clear*
20 *pattern and practice of allowing waivers in*
21 *the absence of diligent efforts by facilities to*
22 *meet the staffing requirements, the Sec-*
23 *retary shall assume and exercise the author-*
24 *ity of the State to grant waivers.*

25 “(5) *REQUIRED TRAINING OF NURSE AIDES.—*

1 “(A) *IN GENERAL.*—(i) *Except as provided*
2 *in clause (ii), a nursing facility must not use on*
3 *a full-time basis any individual as a nurse aide*
4 *in the facility, for more than 4 months unless the*
5 *individual—*

6 “(I) *has completed a training and*
7 *competency evaluation program, or a com-*
8 *petency evaluation program, approved by*
9 *the State under subsection (e)(1)(A), and*

10 “(II) *is competent to provide nursing*
11 *or nursing-related services.*

12 “(ii) *A nursing facility must not use on a*
13 *temporary, per diem, leased, or on any other*
14 *basis other than as a permanent employee any*
15 *individual as a nurse aide in the facility, unless*
16 *the individual meets the requirements described*
17 *in clause (i).*

18 “(B) *OFFERING COMPETENCY EVALUATION*
19 *PROGRAMS FOR CURRENT EMPLOYEES.*—*A nurs-*
20 *ing facility must provide, for individuals used as*
21 *a nurse aide by the facility, for a competency*
22 *evaluation program approved by the State under*
23 *subsection (e)(1) and such preparation as may*
24 *be necessary for the individual to complete such*
25 *a program.*

1 “(C) *COMPETENCY.*—*The nursing facility*
2 *must not permit an individual, other than in a*
3 *training and competency evaluation program*
4 *approved by the State, to serve as a nurse aide*
5 *or provide services of a type for which the indi-*
6 *vidual has not demonstrated competency and*
7 *must not use such an individual as a nurse aide*
8 *unless the facility has inquired of any State reg-*
9 *istry established under subsection (e)(2)(A) that*
10 *the facility believes will include information con-*
11 *cerning the individual.*

12 “(D) *RE-TRAINING REQUIRED.*—*For pur-*
13 *poses of subparagraph (A), if, since an individ-*
14 *ual’s most recent completion of a training and*
15 *competency evaluation program, there has been a*
16 *continuous period of 24 consecutive months dur-*
17 *ing none of which the individual performed*
18 *nursing or nursing-related services for monetary*
19 *compensation, such individual shall complete a*
20 *new training and competency evaluation pro-*
21 *gram, or a new competency evaluation program.*

22 “(E) *REGULAR IN-SERVICE EDUCATION.*—
23 *The nursing facility must provide such regular*
24 *performance review and regular in-service edu-*
25 *cation as assures that individuals used as nurse*

1 *aides are competent to perform services as nurse*
2 *aides, including training for individuals provid-*
3 *ing nursing and nursing-related services to resi-*
4 *dents with cognitive impairments.*

5 *“(F) NURSE AIDE DEFINED.—In this para-*
6 *graph, the term ‘nurse aide’ means any individ-*
7 *ual providing nursing or nursing-related services*
8 *to residents in a nursing facility, but does not*
9 *include an individual—*

10 *“(i) who is a licensed health profes-*
11 *sional (as defined in subparagraph (G)) or*
12 *a registered dietician,*

13 *“(ii) who volunteers to provide such*
14 *services without monetary compensation, or*

15 *“(iii) who is trained, whether com-*
16 *pensated or not, to perform a task-specific*
17 *function which assists residents in their*
18 *daily activities.*

19 *“(G) LICENSED HEALTH PROFESSIONAL DE-*
20 *FINED.—In this paragraph, the term ‘licensed*
21 *health professional’ means a physician, physi-*
22 *cian assistant, nurse practitioner, physical,*
23 *speech, or occupational therapist, physical or oc-*
24 *cupational therapy assistant, registered profes-*

1 sional nurse, licensed practical nurse, or licensed
2 or certified social worker.

3 “(6) *PHYSICIAN SUPERVISION AND CLINICAL*
4 *RECORDS.*—A nursing facility must—

5 “(A) require that the health care of every
6 resident be provided under the supervision of a
7 physician (or, at the option of a State, under the
8 supervision of a nurse practitioner, clinical
9 nurse specialist, or physician assistant who is
10 not an employee of the facility but who is work-
11 ing in collaboration with a physician);

12 “(B) provide for having a physician avail-
13 able to furnish necessary medical care in case of
14 emergency; and

15 “(C) maintain clinical records on all resi-
16 dents, which records include the plans of care
17 (described in paragraph (2)) and the residents’
18 assessments (described in paragraph (3)).

19 “(c) *REQUIREMENTS RELATING TO RESIDENTS’*
20 *RIGHTS.*—

21 “(1) *GENERAL RIGHTS.*—

22 “(A) *SPECIFIED RIGHTS.*—A nursing facil-
23 ity must protect and promote the rights of each
24 resident, including each of the following rights:

1 “(i) *FREE CHOICE.*—*The right to*
2 *choose a personal attending physician, to be*
3 *fully informed in advance about care and*
4 *treatment, to be fully informed in advance*
5 *of any changes in care or treatment that*
6 *may affect the resident’s well-being, and*
7 *(except with respect to a resident adjudged*
8 *incompetent) to participate in planning*
9 *care and treatment or changes in care and*
10 *treatment.*

11 “(ii) *FREE FROM RESTRAINTS.*—*The*
12 *right to be free from physical or mental*
13 *abuse, corporal punishment, involuntary se-*
14 *clusion, and any physical or chemical re-*
15 *straints imposed for purposes of discipline*
16 *or convenience and not required to treat the*
17 *resident’s medical symptoms. Restraints*
18 *may only be imposed—*

19 “(I) *to ensure the physical safety*
20 *of the resident or other residents, and*

21 “(II) *only upon the written order*
22 *of a physician that specifies the dura-*
23 *tion and circumstances under which*
24 *the restraints are to be used (except in*
25 *emergency circumstances specified by*

1 *the Secretary until such an order could*
2 *reasonably be obtained).*

3 “(iii) *PRIVACY.—The right to privacy*
4 *with regard to accommodations, medical*
5 *treatment, written and telephonic commu-*
6 *nications, visits, and meetings of family*
7 *and of resident groups.*

8 “(iv) *CONFIDENTIALITY.—The right to*
9 *confidentiality of personal and clinical*
10 *records and to access to current clinical*
11 *records of the resident upon request by the*
12 *resident or the resident’s legal representa-*
13 *tive, within 24 hours (excluding hours oc-*
14 *curing during a weekend or holiday) after*
15 *making such a request.*

16 “(v) *ACCOMMODATION OF NEEDS.—The*
17 *right—*

18 “(I) *to reside and receive services*
19 *with reasonable accommodation of in-*
20 *dividual needs and preferences, except*
21 *where the health or safety of the indi-*
22 *vidual or other residents would be en-*
23 *dangered, and*

24 “(II) *to receive notice before the*
25 *room or roommate of the resident in*

1 *the facility is changed unless a delay*
2 *in changing the room or roommate*
3 *while notice is given would endanger*
4 *the resident or others.*

5 “(vi) *GRIEVANCES.—The right to voice*
6 *grievances with respect to treatment or care*
7 *that is (or fails to be) furnished, without*
8 *discrimination or reprisal for voicing the*
9 *grievances and the right to prompt efforts*
10 *by the facility to resolve grievances the resi-*
11 *dent may have, including those with respect*
12 *to the behavior of other residents.*

13 “(vii) *PARTICIPATION IN RESIDENT*
14 *AND FAMILY GROUPS.—The right of the resi-*
15 *dent to organize and participate in resident*
16 *groups in the facility and the right of the*
17 *resident’s family to meet in the facility with*
18 *the families of other residents in the facil-*
19 *ity.*

20 “(viii) *PARTICIPATION IN OTHER AC-*
21 *TIVITIES.—The right of the resident to par-*
22 *ticipate in social, religious, and community*
23 *activities that do not interfere with the*
24 *rights of other residents in the facility.*

1 “(ix) *EXAMINATION OF SURVEY RE-*
2 *SULTS.—The right to examine, upon rea-*
3 *sonable request, the results of the most re-*
4 *cent survey of the facility conducted by the*
5 *Secretary or a State with respect to the fa-*
6 *cility and any plan of correction in effect*
7 *with respect to the facility.*

8 “(x) *OTHER RIGHTS.—Any other right*
9 *established by the Secretary.*

10 *Clause (iii) shall not be construed as requiring*
11 *the provision of a private room.*

12 “(B) *NOTICE OF RIGHTS.—A nursing facil-*
13 *ity must—*

14 “(i) *inform each resident, orally and*
15 *in writing at the time of admission to the*
16 *facility, of the resident’s legal rights during*
17 *the stay at the facility and of the require-*
18 *ments and procedures for establishing eligi-*
19 *bility for medical assistance under this title,*
20 *including the right to request an assessment*
21 *under section 2115(c)(1)(B);*

22 “(ii) *make available to each resident,*
23 *upon reasonable request, a written state-*
24 *ment of such rights (which statement is up-*
25 *dated upon changes in such rights) includ-*

1 *ing the notice (if any) of the State developed*
2 *under subsection (e)(6);*

3 *“(iii) inform each resident who is enti-*
4 *tled to medical assistance under this title—*

5 *“(I) at the time of admission to*
6 *the facility or, if later, at the time the*
7 *resident becomes eligible for such as-*
8 *sistance, of the items and services that*
9 *are included in nursing facility serv-*
10 *ices under the State MediGrant plan*
11 *and for which the resident may not be*
12 *charged, and of those other items and*
13 *services that the facility offers and for*
14 *which the resident may be charged and*
15 *the amount of the charges for such*
16 *items and services, and*

17 *“(II) of changes in the items and*
18 *services described in subclause (I) and*
19 *of changes in the charges imposed for*
20 *items and services described in that*
21 *subclause; and*

22 *“(iv) inform each other resident, in*
23 *writing before or at the time of admission*
24 *and periodically during the resident’s stay,*
25 *of services available in the facility and of*

1 *related charges for such services, including*
2 *any charges for services not covered under*
3 *title XVIII or by the facility's basic per*
4 *diem charge.*

5 *The written description of legal rights under this*
6 *subparagraph shall include a description of the*
7 *protection of personal funds under paragraph (6)*
8 *and a statement that a resident may file a com-*
9 *plaint with a State survey and certification*
10 *agency respecting resident abuse and neglect and*
11 *misappropriation of resident property in the fa-*
12 *cility.*

13 “(C) *RIGHTS OF INCOMPETENT RESI-*
14 *DENTS.—In the case of a resident adjudged in-*
15 *competent under the laws of a State, the rights*
16 *of the resident under this title shall devolve upon,*
17 *and, to the extent judged necessary by a court of*
18 *competent jurisdiction, be exercised by, the per-*
19 *son appointed under State law to act on the resi-*
20 *dent's behalf.*

21 “(D) *USE OF PSYCHOPHARMACOLOGIC*
22 *DRUGS.—Psychopharmacologic drugs may be ad-*
23 *ministered only on the orders of a physician and*
24 *only as part of a plan (included in the written*
25 *plan of care described in paragraph (2)) de-*

1 *signed to eliminate or modify the symptoms for*
2 *which the drugs are prescribed and only if, at*
3 *least annually an independent, external consult-*
4 *ant reviews the appropriateness of the drug plan*
5 *of each resident receiving such drugs.*

6 “(2) *TRANSFER AND DISCHARGE RIGHTS.*—

7 “(A) *IN GENERAL.*—*A nursing facility must*
8 *permit each resident to remain in the facility*
9 *and must not transfer or discharge the resident*
10 *from the facility unless—*

11 “(i) *the transfer or discharge is nec-*
12 *essary to meet the resident’s welfare and the*
13 *resident’s welfare cannot be met in the facil-*
14 *ity;*

15 “(ii) *the transfer or discharge is ap-*
16 *propriate because the resident’s health has*
17 *improved sufficiently so the resident no*
18 *longer needs the services provided by the fa-*
19 *ility;*

20 “(iii) *the safety of individuals in the*
21 *facility is endangered;*

22 “(iv) *the health of individuals in the*
23 *facility would otherwise be endangered;*

24 “(v) *the resident has failed, after rea-*
25 *sonable and appropriate notice, to pay (or*

1 to have paid under this title or title XVIII
2 on the resident's behalf) for a stay at the fa-
3 cility; or

4 “(vi) the facility ceases to operate.

5 In each of the cases described in clauses (i)
6 through (iv), the basis for the transfer or dis-
7 charge must be documented in the resident's clin-
8 ical record. In the cases described in clauses (i)
9 and (ii), the documentation must be made by the
10 resident's physician, and in the case described in
11 clause (iv) the documentation must be made by
12 a physician. For purposes of clause (v), in the
13 case of a resident who becomes eligible for assist-
14 ance under this title after admission to the facil-
15 ity, only charges which may be imposed under
16 this title shall be considered to be allowable.

17 “(B) *PRE-TRANSFER AND PRE-DISCHARGE*
18 *NOTICE.*—

19 “(i) *IN GENERAL.*—Before effecting a
20 transfer or discharge of a resident, a nurs-
21 ing facility must—

22 “(I) notify the resident (and, if
23 known, an immediate family member
24 of the resident or legal representative)

1 of the transfer or discharge and the
2 reasons therefor,

3 “(II) record the reasons in the
4 resident’s clinical record (including
5 any documentation required under
6 subparagraph (A)), and

7 “(III) include in the notice the
8 items described in clause (iii).

9 “(i) *TIMING OF NOTICE.*—The notice
10 under clause (i)(I) must be made at least 30
11 days in advance of the resident’s transfer or
12 discharge except—

13 “(I) in a case described in clause
14 (iii) or (iv) of subparagraph (A);

15 “(II) in a case described in clause
16 (ii) of subparagraph (A), where the
17 resident’s health improves sufficiently
18 to allow a more immediate transfer or
19 discharge;

20 “(III) in a case described in
21 clause (i) of subparagraph (A), where a
22 more immediate transfer or discharge
23 is necessitated by the resident’s urgent
24 medical needs;

1 “(IV) in a case where a resident
2 has not resided in the facility for 30
3 days; or

4 “(V) in a case where the provision
5 of a 30-day notice would be impossible
6 or impracticable.

7 *In the case of such exceptions, notice must*
8 *be given as many days before the date of the*
9 *transfer or discharge as is practicable.*

10 “(iii) *ITEMS INCLUDED IN NOTICE.—*
11 *Each notice under clause (i) must include—*

12 “(I) *notice of the resident’s right*
13 *to appeal the transfer or discharge*
14 *under the State process established*
15 *under subsection (e)(3);*

16 “(II) *the name, mailing address,*
17 *and telephone number of the State*
18 *long-term care ombudsman (established*
19 *under title III or VII of the Older*
20 *Americans Act of 1965);*

21 “(III) *in the case of residents with*
22 *developmental disabilities, the mailing*
23 *address and telephone number of the*
24 *agency responsible for the protection*
25 *and advocacy system for developmen-*

1 *tally disabled individuals established*
2 *under part C of the Developmental*
3 *Disabilities Assistance and Bill of*
4 *Rights Act; and*

5 *“(IV) in the case of mentally ill*
6 *residents (as defined in subsection*
7 *(e)(7)(G)(i)), the mailing address and*
8 *telephone number of the agency respon-*
9 *sible for the protection and advocacy*
10 *system for mentally ill individuals es-*
11 *tablished under the Protection and Ad-*
12 *vocacy for Mentally Ill Individuals*
13 *Act.*

14 *“(iv) EXCEPTION.—This subparagraph*
15 *shall not apply to a voluntary transfer or*
16 *discharge or a transfer or discharge neces-*
17 *sitated by a medical emergency.*

18 *“(C) ORIENTATION.—A nursing facility*
19 *must provide reasonable preparation and ori-*
20 *entation to residents to promote safe and orderly*
21 *transfer or discharge from the facility.*

22 *“(D) NOTICE ON BED-HOLD POLICY AND RE-*
23 *ADMISSION.—*

24 *“(i) NOTICE BEFORE TRANSFER.—Be-*
25 *fore a resident of a nursing facility is*

1 *transferred for hospitalization or thera-*
2 *peutic leave, a nursing facility must pro-*
3 *vide written information to the resident and*
4 *an immediate family member or legal rep-*
5 *resentative concerning—*

6 “(I) *the provisions of the State*
7 *MediGrant plan under this title re-*
8 *garding the period (if any) during*
9 *which the resident will be permitted*
10 *under the State MediGrant plan to re-*
11 *turn and resume residence in the facil-*
12 *ity, and*

13 “(II) *the policies of the facility re-*
14 *garding such a period, which policies*
15 *must be consistent with clause (iii).*

16 “(ii) *NOTICE UPON TRANSFER.—At the*
17 *time of transfer of a resident to a hospital*
18 *or for therapeutic leave, a nursing facility*
19 *must provide written notice to the resident*
20 *and an immediate family member or legal*
21 *representative of the duration of any period*
22 *described in clause (i).*

23 “(iii) *PERMITTING RESIDENT TO RE-*
24 *TURN.—A nursing facility must establish*

1 *and follow a written policy under which a*
2 *resident—*

3 “(I) *who is eligible for medical as-*
4 *sistance for nursing facility services*
5 *under a State MediGrant plan,*

6 “(II) *who is transferred from the*
7 *facility for hospitalization or thera-*
8 *peutic leave, and*

9 “(III) *whose hospitalization or*
10 *therapeutic leave exceeds a period paid*
11 *for under the State MediGrant plan for*
12 *the holding of a bed in the facility for*
13 *the resident,*

14 *will be permitted to be readmitted to the fa-*
15 *ility immediately upon the first availabil-*
16 *ity of a bed in a room (not including a pri-*
17 *vate room) in the facility if, at the time of*
18 *readmission, the resident requires the serv-*
19 *ices provided by the facility.*

20 “(3) *ACCESS AND VISITATION RIGHTS.—A nurs-*
21 *ing facility must—*

22 “(A) *permit immediate access to any resi-*
23 *dent by any representative of the Secretary, by*
24 *any representative of the State, by an ombuds-*
25 *man or agency described in subclause (II), (III),*

1 or (IV) of paragraph (2)(B)(iii), or by the resi-
2 dent's individual physician;

3 “(B) permit immediate access to a resident,
4 subject to the resident's right to deny or with-
5 draw consent at any time, by immediate family
6 or other relatives of the resident;

7 “(C) permit immediate access to a resident,
8 subject to reasonable restrictions and the resi-
9 dent's right to deny or withdraw consent at any
10 time, by others who are visiting with the consent
11 of the resident, unless such access would endan-
12 ger the health or safety of the resident or others
13 in the facility;

14 “(D) permit reasonable access to a resident
15 by any entity or individual that provides health,
16 social, legal, or other services to the resident, sub-
17 ject to the resident's right to deny or withdraw
18 consent at any time; and

19 “(E) permit representatives of the State om-
20 budsman (described in paragraph
21 (2)(B)(iii)(II)), with the permission of the resi-
22 dent (or the resident's legal representative) and
23 consistent with State law, to examine a resi-
24 dent's clinical records.

25 “(4) EQUAL ACCESS TO QUALITY CARE.—

1 “(A) *IN GENERAL.*—*A nursing facility must*
2 *establish and maintain identical policies and*
3 *practices regarding transfer, discharge, and the*
4 *provision of services required under the State*
5 *MediGrant plan for all individuals regardless of*
6 *source of payment.*

7 “(B) *CONSTRUCTION.*—

8 “(i) *NOTHING PROHIBITING ANY*
9 *CHARGES FOR NON-MEDIGRANT PATIENTS.*—
10 *Subparagraph (A) shall not be construed as*
11 *prohibiting a nursing facility from charg-*
12 *ing any amount for services furnished, con-*
13 *sistent with the notice in paragraph (1)(B)*
14 *describing such charges.*

15 “(ii) *NO ADDITIONAL SERVICES RE-*
16 *QUIRED.*—*Subparagraph (A) shall not be*
17 *construed as requiring a State to offer addi-*
18 *tional services on behalf of a resident than*
19 *are otherwise provided under the State*
20 *MediGrant plan.*

21 “(5) *PROTECTION OF RESIDENT FUNDS.*—

22 “(A) *IN GENERAL.*—*The nursing facility—*

23 “(i) *may not require residents to de-*
24 *posit their personal funds with the facility,*
25 *and*

1 “(ii) upon the written authorization of
2 the resident, must hold, safeguard, and ac-
3 count for such personal funds under a sys-
4 tem established and maintained by the fa-
5 cility in accordance with this paragraph.

6 “(B) MANAGEMENT OF PERSONAL FUNDS.—
7 Upon written authorization of a resident under
8 subparagraph (A)(ii), the facility must manage
9 and account for the personal funds of the resi-
10 dent deposited with the facility as follows:

11 “(i) DEPOSIT.—The facility must de-
12 posit any amount of personal funds in ex-
13 cess of \$250 with respect to a resident in an
14 interest bearing account (or accounts) that
15 is separate from any of the facility’s operat-
16 ing accounts and credits all interest earned
17 on such separate account to such account.
18 With respect to any other personal funds,
19 the facility must maintain such funds in a
20 non-interest bearing account or petty cash
21 fund.

22 “(ii) ACCOUNTING AND RECORDS.—The
23 facility must assure a full and complete ac-
24 counting of each such resident’s personal
25 funds, maintain a written record of all fi-

1 *nancial transactions involving the personal*
2 *funds of a resident deposited with the facil-*
3 *ity, and afford the resident (or a legal rep-*
4 *resentative of the resident) reasonable access*
5 *to such record.*

6 “(iii) CONVEYANCE UPON DEATH.—
7 *Upon the death of a resident with such an*
8 *account, the facility must convey promptly*
9 *the resident’s personal funds (and a final*
10 *accounting of such funds) to the individual*
11 *administering the resident’s estate. All other*
12 *personal property, including medical*
13 *records, shall be considered part of the resi-*
14 *dent’s estate and shall only be released to*
15 *the administrator of the estate.*

16 “(C) ASSURANCE OF FINANCIAL SECUR-
17 *ITY.—The facility must purchase a surety bond,*
18 *or otherwise provide assurance satisfactory to the*
19 *State, to assure the security of all personal funds*
20 *of residents deposited with the facility.*

21 “(D) LIMITATION ON CHARGES TO PER-
22 *SONAL FUNDS.—The facility may not impose a*
23 *charge against the personal funds of a resident*
24 *for any item or service for which payment is*
25 *made under this title or title XVIII.*

1 “(6) *LIMITATION ON CHARGES IN CASE OF*
2 *MEDIGRANT-ELIGIBLE INDIVIDUALS.—A nursing facil-*
3 *ity may not impose charges, for certain MediGrant-*
4 *eligible individuals for nursing facility services cov-*
5 *ered by the State under its plan under this title, that*
6 *exceed the payment amounts established by the State*
7 *for such services under this title.*

8 “(7) *POSTING OF SURVEY RESULTS.—A nursing*
9 *facility must post in a place readily accessible to resi-*
10 *dents, and family members and legal representatives*
11 *of residents, the results of the most recent survey of*
12 *the facility conducted under subsection (g).*

13 “(d) *REQUIREMENTS RELATING TO ADMINISTRATION*
14 *AND OTHER MATTERS.—*

15 “(1) *ADMINISTRATION.—*

16 “(A) *IN GENERAL.—A nursing facility must*
17 *be administered in a manner that enables it to*
18 *use its resources effectively and efficiently to at-*
19 *tain or maintain the highest practicable phys-*
20 *ical, mental, and psychosocial well-being of each*
21 *resident (consistent with requirements established*
22 *under subsection (f)(5)).*

23 “(B) *REQUIRED NOTICES.—If a change oc-*
24 *curs in—*

1 “(i) *the persons with an ownership or*
2 *control interest (as defined in section*
3 *1124(a)(3)) in the facility,*

4 “(ii) *the persons who are officers, di-*
5 *rectors, agents, or managing employees (as*
6 *defined in section 1126(b)) of the facility,*

7 “(iii) *the corporation, association, or*
8 *other company responsible for the manage-*
9 *ment of the facility, or*

10 “(iv) *the individual who is the admin-*
11 *istrator or director of nursing of the facil-*
12 *ity,*

13 *the nursing facility must provide notice to the*
14 *State agency responsible for the licensing of the*
15 *facility, at the time of the change, of the change*
16 *and of the identity of each new person, company,*
17 *or individual described in the respective clause.*

18 “(C) *NURSING FACILITY ADMINISTRATOR.—*
19 *The administrator of a nursing facility, whether*
20 *freestanding or hospital-based, must meet such*
21 *standards as are established by the Secretary.*

22 “(2) *LICENSING AND LIFE SAFETY CODE.—*

23 “(A) *LICENSING.—A nursing facility must*
24 *be licensed under applicable State and local law.*

1 “(B) *LIFE SAFETY CODE*.—A nursing facil-
2 ity must meet such provisions of such edition (as
3 specified by the Secretary in regulation) of the
4 *Life Safety Code of the National Fire Protection*
5 *Association as are applicable to nursing homes;*
6 *except that—*

7 “(i) the Secretary may waive, for such
8 periods as he deems appropriate, specific
9 provisions of such Code which if rigidly ap-
10 plied would result in unreasonable hardship
11 upon a facility, but only if such waiver
12 would not adversely affect the health and
13 safety of residents or personnel, and

14 “(ii) the provisions of such Code shall
15 not apply in any State if the Secretary
16 finds that in such State there is in effect a
17 fire and safety code, imposed by State law,
18 which adequately protects residents of and
19 personnel in nursing facilities.

20 “(3) *SANITARY AND INFECTION CONTROL AND*
21 *PHYSICAL ENVIRONMENT*.—A nursing facility must—

22 “(A) establish and maintain an infection
23 control program designed to provide a safe, sani-
24 tary, and comfortable environment in which resi-

1 *dents reside and to help prevent the development*
2 *and transmission of disease and infection, and*

3 “(B) *be designed, constructed, equipped, and*
4 *maintained in a manner to protect the health*
5 *and safety of residents, personnel, and the gen-*
6 *eral public.*

7 “(4) *MISCELLANEOUS.—*

8 “(A) *COMPLIANCE WITH FEDERAL, STATE,*
9 *AND LOCAL LAWS AND PROFESSIONAL STAND-*
10 *ARDS.—A nursing facility, whether freestanding*
11 *or hospital-based, must operate and provide serv-*
12 *ices in compliance with all applicable Federal,*
13 *State, and local laws and regulations (including*
14 *the requirements of section 1124) and with ac-*
15 *cepted professional standards and principles*
16 *which apply to professionals providing services*
17 *in such a facility.*

18 “(B) *OTHER.—A nursing facility must*
19 *meet such other requirements relating to the*
20 *health and safety of residents or relating to the*
21 *physical facilities thereof as the Secretary may*
22 *find necessary.*

23 “(e) *STATE REQUIREMENTS RELATING TO NURSING*
24 *FACILITY REQUIREMENTS.—A State with a MediGrant*
25 *plan shall provide for the following:*

1 “(1) *SPECIFICATION AND REVIEW OF NURSE*
2 *AIDE TRAINING AND COMPETENCY EVALUATION PRO-*
3 *GRAMS AND OF NURSE AIDE COMPETENCY EVALUA-*
4 *TION PROGRAMS.—The State must—*

5 “(A) *specify those training and competency*
6 *evaluation programs, and those competency eval-*
7 *uation programs, that the State approves for*
8 *purposes of subsection (b)(5) and that meet the*
9 *requirements established under subsection (f)(2),*
10 *and*

11 “(B) *provide for the review and reapproval*
12 *of such programs, at a frequency and using a*
13 *methodology consistent with the requirements es-*
14 *tablished under subsection (f)(2)(A)(iii).*

15 “(2) *NURSE AIDE REGISTRY.—*

16 “(A) *IN GENERAL.—The State shall estab-*
17 *lish and maintain a registry of all individuals*
18 *who have satisfactorily completed a nurse aide*
19 *training and competency evaluation program, or*
20 *a nurse aide competency evaluation program,*
21 *approved under paragraph (1) in the State, or*
22 *any individual described in subsection*
23 *(f)(2)(B)(ii) or in subparagraph (B), (C), or (D)*
24 *of section 6901(b)(4) of the Omnibus Budget Rec-*
25 *onciliation Act of 1989.*

1 “(B) *INFORMATION IN REGISTRY.*—*The reg-*
2 *istry under subparagraph (A) shall provide for*
3 *the inclusion of specific documented findings by*
4 *a State under subsection (g)(1)(C) of resident ne-*
5 *glect or abuse or misappropriation of resident*
6 *property involving an individual listed in the*
7 *registry, as well as any brief statement of the in-*
8 *dividual disputing the findings. The State shall*
9 *make available to the public information in the*
10 *registry. In the case of inquiries to the registry*
11 *concerning an individual listed in the registry,*
12 *any information disclosed concerning such a*
13 *finding shall also include disclosure of any such*
14 *statement in the registry relating to the finding*
15 *or a clear and accurate summary of such a state-*
16 *ment.*

17 “(C) *PROHIBITION AGAINST CHARGES.*—*A*
18 *State may not impose any charges on a nurse*
19 *aide relating to the registry established and*
20 *maintained under subparagraph (A).*

21 “(3) *STATE APPEALS PROCESS FOR TRANSFERS*
22 *AND DISCHARGES.*—*The State must provide for a fair*
23 *mechanism, meeting the guidelines established under*
24 *subsection (f)(3), for hearing appeals on transfers and*
25 *discharges of residents of such facilities.*

1 “(4) *NURSING FACILITY ADMINISTRATOR STAND-*
2 *ARDS.—The State must implement and enforce the*
3 *nursing facility administrator standards developed*
4 *under subsection (f)(4) respecting the qualification of*
5 *administrators of nursing facilities. Any such stand-*
6 *ards promulgated shall apply to administrators of*
7 *hospital-based facilities as well as administrators of*
8 *freestanding facilities.*

9 “(5) *SPECIFICATION OF RESIDENT ASSESSMENT*
10 *INSTRUMENT.—The State shall specify the instrument*
11 *to be used by nursing facilities in the State in com-*
12 *plying with the requirement of subsection*
13 *(b)(3)(A)(iii).*

14 “(6) *NOTICE OF MEDIGRANT RIGHTS.—Each*
15 *State shall develop (and periodically update) a writ-*
16 *ten notice of the rights and obligations of residents of*
17 *nursing facilities (and spouses of such residents)*
18 *under this title.*

19 “(7) *STATE REQUIREMENTS FOR PREADMISSION*
20 *SCREENING AND RESIDENT REVIEW.—*

21 “(A) *PREADMISSION SCREENING.—*

22 “(i) *IN GENERAL.—The State must*
23 *have in effect a preadmission screening pro-*
24 *gram, for identifying mentally ill and men-*
25 *tally retarded individuals (as defined in*

1 subparagraph (B)) who are admitted to
2 nursing facilities.

3 “(i) *STATE REQUIREMENT FOR RESI-*
4 *DENT REVIEW.*—*The State shall notify the*
5 *State mental health authority or the State*
6 *mental retardation or developmental dis-*
7 *ability authority, as appropriate, of the in-*
8 *dividuals so identified.*

9 “(B) *DEFINITIONS.*—*In this paragraph:*

10 “(i) *An individual is considered to be*
11 *‘mentally ill’ if the individual has a serious*
12 *mental illness (as defined by the Secretary*
13 *in consultation with the National Institute*
14 *of Mental Health) and does not have a pri-*
15 *mary diagnosis of dementia (including Alz-*
16 *heimer’s disease or a related disorder) or a*
17 *diagnosis (other than a primary diagnosis)*
18 *of dementia and a primary diagnosis that*
19 *is not a serious mental illness.*

20 “(ii) *An individual is considered to be*
21 *‘mentally retarded’ if the individual is men-*
22 *tally retarded or a person with a related*
23 *condition.*

24 “(f) *RESPONSIBILITIES RELATING TO NURSING FACIL-*
25 *ITY REQUIREMENTS.*—

1 “(1) *GENERAL RESPONSIBILITY.*—*It is the duty*
2 *and responsibility of a State with a MediGrant plan*
3 *under this title to assure that requirements which gov-*
4 *ern the provision of care in nursing facilities under*
5 *the plan, and the enforcement of such requirements,*
6 *are adequate to protect the health, safety, welfare, and*
7 *rights of residents and to promote the effective and ef-*
8 *ficient use of public moneys.*

9 “(2) *REQUIREMENTS FOR NURSE AIDE TRAINING*
10 *AND COMPETENCY EVALUATION PROGRAMS AND FOR*
11 *NURSE AIDE COMPETENCY EVALUATION PROGRAMS.*—
12 *For purposes of subsections (b)(5) and (e)(1)(A), the*
13 *State shall establish—*

14 “(A) *requirements for the approval of nurse*
15 *aide training and competency evaluation pro-*
16 *grams, including requirements relating to (i) the*
17 *areas to be covered in such a program (including*
18 *at least basic nursing skills, personal care skills,*
19 *recognition of mental health and social service*
20 *needs, care of cognitively impaired residents,*
21 *basic restorative services, and residents’ rights)*
22 *and content of the curriculum, (ii) minimum*
23 *hours of initial and ongoing training and re-*
24 *training, (iii) qualifications of instructors, and*
25 *(iv) procedures for determination of competency;*

1 “(B) requirements for the approval of nurse
2 aide competency evaluation programs, including
3 requirement relating to the areas to be covered in
4 such a program, including at least basic nursing
5 skills, personal care skills, recognition of mental
6 health and social service needs, care of cog-
7 nitively impaired residents, basic restorative
8 services, and residents’ rights, and procedures for
9 determination of competency;

10 “(C) requirements respecting the minimum
11 frequency and methodology to be used by a State
12 in reviewing such programs’ compliance with the
13 requirements for such programs; and

14 “(D) requirements, under both such pro-
15 grams, that—

16 “(i) provide procedures for determining
17 competency that permit a nurse aide, at the
18 nurse aide’s option, to establish competency
19 through procedures or methods other than
20 the passing of a written examination and to
21 have the competency evaluation conducted
22 at the nursing facility at which the aide is
23 (or will be) employed, and

24 “(ii) prohibit the imposition on a
25 nurse aide who is employed by (or who has

1 received an offer of employment from) a fa-
2 cility on the date on which the aide begins
3 either such program of any charges (includ-
4 ing any charges for textbooks and other re-
5 quired course materials and any charges for
6 the competency evaluation) for either such
7 program.

8 “(3) *QUALIFICATION OF ADMINISTRATORS.*—For
9 purposes of subsections (d)(1)(C) and (e)(4), the State
10 shall develop standards to be applied in assuring the
11 qualifications of administrators of nursing facilities.
12 Any such standards must apply to administrators of
13 hospital-based facilities as well as administrators of
14 freestanding facilities.

15 “(g) *SURVEY AND CERTIFICATION PROCESS.*—

16 “(1) *STATE AND FEDERAL RESPONSIBILITY.*—

17 “(A) *IN GENERAL.*—Under each State
18 MediGrant plan under this title, the State shall
19 be responsible for certifying, in accordance with
20 surveys conducted under paragraph (2), the com-
21 pliance of nursing facilities with the require-
22 ments of subsections (b), (c), and (d). The Sec-
23 retary shall be responsible for certifying, in ac-
24 cordance with surveys conducted under para-

1 *graph (2), the compliance of State nursing facili-*
2 *ties with the requirements of such subsections.*

3 “(B) *INVESTIGATION OF ALLEGATIONS OF*
4 *RESIDENT NEGLECT AND ABUSE AND MISAPPRO-*
5 *PRIATION OF RESIDENT PROPERTY.—The State*
6 *shall provide, through the agency responsible for*
7 *surveys and certification of nursing facilities*
8 *under this subsection, for a process for the re-*
9 *ceipt and timely review and investigation of al-*
10 *legations of neglect and abuse and misappropria-*
11 *tion of resident property by a nurse aide of a*
12 *resident in a nursing facility or by another indi-*
13 *vidual used by the facility in providing services*
14 *to such a resident. The State shall, after notice*
15 *to the individual involved and a reasonable op-*
16 *portunity for a hearing for the individual to*
17 *rebut allegations, make a finding as to the accu-*
18 *racy of the allegations. If the State finds that a*
19 *nurse aide has neglected or abused a resident or*
20 *misappropriated resident property in a facility,*
21 *the State shall notify the nurse aide and the reg-*
22 *istry of such finding. If the State finds that any*
23 *other individual used by the facility has ne-*
24 *glected or abused a resident or misappropriated*
25 *resident property in a facility, the State shall*

1 *notify the appropriate licensure authority. A*
2 *State shall not make a finding that an individ-*
3 *ual has neglected a resident if the individual*
4 *demonstrates that such neglect was caused by*
5 *factors beyond the control of the individual.*

6 “(2) *SURVEYS.—*

7 “(A) *ANNUAL STANDARD SURVEY.—*

8 “(i) *IN GENERAL.—Each nursing facil-*
9 *ity shall be subject to a standard survey, to*
10 *be conducted without any prior notice to the*
11 *facility. Any individual who notifies (or*
12 *causes to be notified) a nursing facility of*
13 *the time or date on which such a survey is*
14 *scheduled to be conducted is subject to a*
15 *civil money penalty of not to exceed \$2,000.*
16 *The provisions of section 1128A (other than*
17 *subsections (a) and (b)) shall apply to a*
18 *civil money penalty under the previous sen-*
19 *tence in the same manner as such provi-*
20 *sions apply to a penalty or proceeding*
21 *under section 1128A(a). The State shall*
22 *take all reasonable steps to avoid giving no-*
23 *tice of such a survey through the scheduling*
24 *procedures and the conduct of the surveys*
25 *themselves.*

1 “(ii) *CONTENTS.*—*Each standard sur-*
2 *vey shall include, for a case-mix stratified*
3 *sample of residents—*

4 “(I) *a survey of the quality of*
5 *care furnished, as measured by indica-*
6 *tors of medical, nursing, and rehabili-*
7 *tative care, dietary and nutrition serv-*
8 *ices, activities and social participa-*
9 *tion, and sanitation, infection control,*
10 *and the physical environment,*

11 “(II) *written plans of care pro-*
12 *vided under subsection (b)(2) and an*
13 *audit of the residents’ assessments*
14 *under subsection (b)(3) to determine*
15 *the accuracy of such assessments and*
16 *the adequacy of such plans of care, and*

17 “(III) *a review of compliance*
18 *with residents’ rights under subsection*
19 *(c).*

20 “(iii) *FREQUENCY.*—

21 “(I) *IN GENERAL.*—*Each nursing*
22 *facility shall be subject to a standard*
23 *survey not later than 24 months after*
24 *the date of the previous standard sur-*
25 *vey conducted under this subpara-*

1 graph, except that in the case of a fa-
2 cility which has been subjected to an
3 extended survey under subparagraph
4 (B), a standard survey shall be con-
5 ducted not later than 12 months after
6 the date of the preceding extended sur-
7 vey.

8 “(II) SPECIAL SURVEYS.—If not
9 otherwise conducted under subclause
10 (I), a standard survey (or an abbrevi-
11 ated standard survey) may be con-
12 ducted within 4 months of any change
13 of ownership, administration, manage-
14 ment of a nursing facility, or director
15 of nursing in order to determine
16 whether the change has resulted in any
17 decline in the quality of care furnished
18 in the facility.

19 “(B) EXTENDED SURVEYS.—

20 “(i) IN GENERAL.—Each nursing facil-
21 ity which is found, under a standard sur-
22 vey, to have provided substandard quality
23 of care shall be subject to an extended sur-
24 vey. Any other facility may, at the State’s

1 *discretion, be subject to such an extended*
2 *survey (or a partial extended survey).*

3 “(ii) *TIMING.*—*The extended survey*
4 *shall be conducted immediately after the*
5 *standard survey (or, if not practicable, not*
6 *later than 2 weeks after the date of comple-*
7 *tion of the standard survey).*

8 “(iii) *CONTENTS.*—*In such an ex-*
9 *tended survey, the survey team shall review*
10 *and identify the policies and procedures*
11 *which produced such substandard quality of*
12 *care and shall determine whether the facil-*
13 *ity has complied with all the requirements*
14 *described in subsections (b), (c), and (d).*
15 *Such review shall include an expansion of*
16 *the size of the sample of residents’ assess-*
17 *ments reviewed and a review of the staffing,*
18 *of in-service training, and, if appropriate,*
19 *of contracts with consultants.*

20 “(iv) *CONSTRUCTION.*—*Nothing in this*
21 *paragraph shall be construed as requiring*
22 *an extended or partial extended survey as a*
23 *prerequisite to imposing a sanction against*
24 *a facility under subsection (h) on the basis*
25 *of findings in a standard survey.*

1 “(C) *SURVEY PROTOCOL.*—*Standard and*
2 *extended surveys shall be conducted—*

3 “(i) *based upon the protocol which the*
4 *Secretary has developed, tested, and vali-*
5 *dated, as of the date of the enactment of this*
6 *title, and*

7 “(ii) *by individuals, of a survey team,*
8 *who meet such minimum qualifications as*
9 *the State establishes.*

10 “(D) *CONSISTENCY OF SURVEYS.*—*Each*
11 *State shall implement programs to measure and*
12 *reduce inconsistency in the application of survey*
13 *results among surveyors.*

14 “(E) *SURVEY TEAMS.*—

15 “(i) *IN GENERAL.*—*Surveys under this*
16 *subsection shall be conducted by a multi-*
17 *disciplinary team of professionals (includ-*
18 *ing a registered professional nurse).*

19 “(ii) *PROHIBITION OF CONFLICTS OF*
20 *INTEREST.*—*A State may not use as a*
21 *member of a survey team under this sub-*
22 *section an individual who is serving (or has*
23 *served within the previous 2 years) as a*
24 *member of the staff of, or as a consultant to,*
25 *the facility surveyed respecting compliance*

1 with the requirements of subsections (b), (c),
2 and (d), or who has a personal or familial
3 financial interest in the facility being sur-
4 veyed.

5 “(3) *VALIDATION SURVEYS.*—

6 “(A) *IN GENERAL.*—The Secretary shall
7 conduct onsite surveys of a representative sample
8 of nursing facilities in each State, within 4
9 months of the date of surveys conducted under
10 paragraph (2) by the State, in a sufficient num-
11 ber to allow inferences about the adequacies of
12 each State’s surveys conducted under paragraph
13 (2). In conducting such surveys, the Secretary
14 shall use the same survey protocols as the State
15 is required to use under paragraph (2). If the
16 State has determined that an individual nursing
17 facility meets the requirements of subsections (b),
18 (c), and (d), but the Secretary determines that
19 the facility does not meet such requirements, the
20 Secretary’s determination as to the facility’s
21 noncompliance with such requirements is bind-
22 ing and supersedes that of the State survey.

23 “(B) *SCOPE.*—With respect to each State,
24 the Secretary shall conduct surveys under sub-
25 paragraph (A) at least every third year with re-

1 *spect to at least 5 percent of the number of nurs-*
2 *ing facilities surveyed by the State in the year,*
3 *but in no case less than 5 nursing facilities in*
4 *the State.*

5 “(C) *SPECIAL SURVEYS OF COMPLIANCE.—*
6 *Where the Secretary has found substantial evi-*
7 *dence of a pattern of noncompliance by a nurs-*
8 *ing facility with any of the requirements of sub-*
9 *sections (b), (c), and (d), the Secretary may con-*
10 *duct a survey of the facility and, on the basis of*
11 *that survey, make determinations concerning the*
12 *extent to which the nursing facility meets such*
13 *requirements.*

14 “(4) *INVESTIGATION OF COMPLAINTS AND MON-*
15 *ITORING NURSING FACILITY COMPLIANCE.—Each*
16 *State shall maintain procedures and adequate staff*
17 *to—*

18 “(A) *investigate complaints of violations of*
19 *requirements by nursing facilities, and*

20 “(B) *monitor, on-site, on a regular, as need-*
21 *ed basis, a nursing facility’s compliance with the*
22 *requirements of subsections (b), (c), and (d), if—*

23 “(i) *the facility has been found not to*
24 *be in compliance with such requirements*

1 *and is in the process of correcting defi-*
2 *ciencies to achieve such compliance;*

3 “(ii) *the facility was previously found*
4 *not to be in compliance with such require-*
5 *ments, has corrected deficiencies to achieve*
6 *such compliance, and verification of contin-*
7 *ued compliance is indicated; or*

8 “(iii) *the State has reason to question*
9 *the compliance of the facility with such re-*
10 *quirements.*

11 “(5) *DISCLOSURE OF RESULTS OF INSPECTIONS*
12 *AND ACTIVITIES.—*

13 “(A) *PUBLIC INFORMATION.—Each State,*
14 *and the Secretary, shall make available to the*
15 *public—*

16 “(i) *information respecting all surveys*
17 *and certifications made respecting nursing*
18 *facilities, including statements of defi-*
19 *ciencies, within a reasonable time after such*
20 *information is made available to those fa-*
21 *ilities, and approved plans of correction,*

22 “(ii) *copies of cost reports of such fa-*
23 *ilities filed under this title or under title*
24 *XVIII,*

1 “(iii) copies of statements of ownership
2 under section 1124, and

3 “(iv) information disclosed under sec-
4 tion 1126.

5 “(B) NOTICE TO OMBUDSMAN.—Each State
6 shall notify the State long-term care ombudsman
7 (established under title III or VII of the Older
8 Americans Act of 1965 in accordance with sec-
9 tion 712 of the Act) of the State’s findings of
10 noncompliance with any of the requirements of
11 subsections (b), (c), and (d), or of any adverse
12 action taken against a nursing facility under
13 paragraphs (1), (2), or (3) of subsection (h), with
14 respect to a nursing facility in the State.

15 “(C) NOTICE TO PHYSICIANS AND NURSING
16 FACILITY ADMINISTRATOR LICENSING BOARD.—If
17 a State finds that a nursing facility has pro-
18 vided substandard quality of care, the State shall
19 notify—

20 “(i) the attending physician of each
21 resident with respect to which such finding
22 is made, and

23 “(ii) any State board responsible for
24 the licensing of the nursing facility admin-
25 istrator of the facility.

1 “(D) *ACCESS TO FRAUD CONTROL UNITS.*—
2 *Each State shall provide its State MediGrant*
3 *fraud and abuse control unit (established under*
4 *section 2134) with access to all information of*
5 *the State agency responsible for surveys and cer-*
6 *tifications under this subsection.*

7 “(h) *ENFORCEMENT PROCESS.*—

8 “(1) *IN GENERAL.*—*If a State finds, on the basis*
9 *of a standard, extended, or partial extended survey*
10 *under subsection (g)(2) or otherwise, that a nursing*
11 *facility no longer meets a requirement of subsection*
12 *(b), (c), or (d)—*

13 “(A) *the State shall require the facility to*
14 *correct the deficiency involved;*

15 “(B) *if the State finds that the facility’s de-*
16 *ficiencies immediately jeopardize the health or*
17 *safety of its residents, the State shall take imme-*
18 *diate action to remove the jeopardy and correct*
19 *the deficiencies through the remedy specified in*
20 *paragraph (2)(A)(iii), or terminate the facility’s*
21 *participation under the State MediGrant plan*
22 *and may provide, in addition, for one or more*
23 *of the other remedies described in paragraph (2);*
24 *and*

1 “(C) if the State finds that the facility’s de-
2 ficiencies do not immediately jeopardize the
3 health or safety of its residents, the State may—

4 “(i) terminate the facility’s participa-
5 tion under the State MediGrant plan,

6 “(ii) provide for one or more of the
7 remedies described in paragraph (2), or

8 “(iii) do both.

9 “(2) SPECIFIED REMEDIES.—

10 “(A) LISTING.—Except as provided in sub-
11 paragraph (B), each State shall establish by law
12 (whether statute or regulation) at least the fol-
13 lowing remedies:

14 “(i) Denial of payment under the State
15 MediGrant plan with respect to any indi-
16 vidual admitted to the nursing facility in-
17 volved after such notice to the public and to
18 the facility as may be provided for by the
19 State.

20 “(ii) A civil money penalty assessed
21 and collected, with interest, for each day in
22 which the facility is or was out of compli-
23 ance with a requirement of subsection (b),
24 (c), or (d).

1 “(iii) *The appointment of temporary*
2 *management to oversee the operation of the*
3 *facility and to assure the health and safety*
4 *of the facility’s residents, where there is a*
5 *need for temporary management while—*

6 “(I) *there is an orderly closure of*
7 *the facility, or*

8 “(II) *improvements are made in*
9 *order to bring the facility into compli-*
10 *ance with all the requirements of sub-*
11 *sections (b), (c), and (d).*

12 *The temporary management under this*
13 *clause shall not be terminated under*
14 *subclause (II) until the State has deter-*
15 *mined that the facility has the management*
16 *capability to ensure continued compliance*
17 *with all the requirements of subsections (b),*
18 *(c), and (d).*

19 “(iv) *The authority, in the case of an*
20 *emergency, to close the facility, to transfer*
21 *residents in that facility to other facilities,*
22 *or both.*

23 *The State also shall specify criteria, as to when*
24 *and how each of such remedies is to be applied,*
25 *the amounts of any fines, and the severity of*

1 each of these remedies, to be used in the imposi-
2 tion of such remedies.

3 “(B) *ALTERNATIVE REMEDIES.*—A State
4 may establish alternative remedies to the rem-
5 edies described in subparagraph (A), if the State
6 demonstrates to the Secretary’s satisfaction that
7 the alternative remedies are as effective in deter-
8 ring noncompliance and correcting deficiencies
9 as those described in such subparagraph.

10 “(C) *ASSURING PROMPT COMPLIANCE.*—If a
11 nursing facility has not complied with any of the
12 requirements of subsections (b), (c), and (d),
13 within 3 months after the date the facility is
14 found to be out of compliance with such require-
15 ments, the State may impose the remedy de-
16 scribed in subparagraph (A)(i) for all individ-
17 uals who are admitted to the facility after such
18 date.

19 “(D) *REPEATED NONCOMPLIANCE.*—In the
20 case of a nursing facility which, on 3 consecutive
21 standard surveys conducted under subsection
22 (g)(2), has been found to have provided sub-
23 standard quality of care, the State shall (regard-
24 less of what other remedies are provided)—

1 “(i) impose the remedy described in
2 subparagraph (A)(i), and

3 “(ii) monitor the facility under sub-
4 section (g)(4)(B),

5 until the facility has demonstrated, to the satis-
6 faction of the State, that it is in compliance with
7 the requirements of subsections (b), (c), and (d),
8 and that it will remain in compliance with such
9 requirements.

10 “(3) SECRETARIAL AUTHORITY.—

11 “(A) FOR STATE NURSING FACILITIES.—

12 With respect to a State nursing facility, the Sec-
13 retary shall have the authority and duties of a
14 State under this subsection. Nothing in this sub-
15 paragraph shall be construed as restricting the
16 remedies available to the Secretary to remedy a
17 nursing facility’s deficiencies.

18 “(B) OTHER NURSING FACILITIES.—With

19 respect to any other nursing facility in a State,
20 if the Secretary finds that a nursing facility no
21 longer meets a requirement of subsection (b), (c),
22 or (d), the Secretary shall notify the State of
23 such deficiency. If, after a reasonable period of
24 time after such notification is given, the Sec-
25 retary finds that the State has failed to carry

1 out the requirements of paragraph (1)(A) or
2 paragraph (1)(B) (if appropriate) with respect
3 to the deficiency involved, or that the deficiency
4 remains uncorrected—

5 “(i) the Secretary shall require the fa-
6 cility to correct the deficiency involved;

7 “(ii) if the Secretary finds that the de-
8 ficiency involved immediately jeopardizes
9 the health or safety of its residents, the Sec-
10 retary shall, in consultation with the State,
11 take action to remove the jeopardy and cor-
12 rect the deficiencies through the remedy
13 specified in subparagraph (C)(iii), or ter-
14 minate the facility’s participation under the
15 State MediGrant plan and may provide, in
16 addition, for one or more of the other rem-
17 edies described in subparagraph (C); and

18 “(iii) in the case of a deficiency that
19 remains uncorrected, if the Secretary finds
20 that the deficiency involved does not imme-
21 diately jeopardize the health or safety of its
22 residents, the Secretary may impose any of
23 the remedies described in subparagraph (C).

24 “(C) SPECIFIED REMEDIES.—The remedies
25 specified in this subparagraph are as follows:

1 “(i) *DENIAL OF PAYMENT.*—*Denial of*
2 *any further payments to the State in ac-*
3 *cordance with section 2154(f) for medical*
4 *assistance furnished by the facility to all in-*
5 *dividuals in the facility or to individuals*
6 *admitted to the facility after the effective*
7 *date of the finding.*

8 “(ii) *AUTHORITY WITH RESPECT TO*
9 *CIVIL MONEY PENALTIES.*—*Imposition of a*
10 *civil money penalty against the facility in*
11 *an amount not to exceed \$5,000 for each*
12 *day of noncompliance. The provisions of*
13 *section 1128A (other than subsections (a)*
14 *and (b)) shall apply to a civil money pen-*
15 *alty under the previous sentence in the same*
16 *manner as such provisions apply to a pen-*
17 *alty or proceeding under section 1128A(a).*

18 “(iii) *APPOINTMENT OF TEMPORARY*
19 *MANAGEMENT.*—*Appointment of temporary*
20 *management (in consultation with the*
21 *State) to oversee the operation of the facility*
22 *and to assure the health and safety of the*
23 *facility’s residents, where there is a need for*
24 *temporary management while—*

1 “(I) there is an orderly closure of
2 the facility, or

3 “(II) improvements are made in
4 order to bring the facility into compli-
5 ance with all the requirements of sub-
6 sections (b), (c), and (d).

7 The temporary management under this
8 clause shall not be terminated under
9 subclause (II) until the Secretary has deter-
10 mined that the facility has the management
11 capability to ensure continued compliance
12 with all the requirements of subsections (b),
13 (c), and (d).

14 The Secretary shall specify criteria, as to when
15 and how each of such remedies is to be applied,
16 the amounts of any fines, and the severity of
17 each of these remedies, to be used in the imposi-
18 tion of such remedies.

19 “(4) SPECIAL RULES REGARDING PAYMENTS TO
20 FACILITIES.—

21 “(A) CONTINUATION OF PAYMENTS PENDING
22 REMEDICATION.—The State or the Secretary, as
23 appropriate, may continue payments, over a pe-
24 riod of not longer than 6 months after the effec-
25 tive date of the findings, under this title with re-

1 *spect to a nursing facility not in compliance*
2 *with a requirement of subsection (b), (c), or (d).*

3 “(B) *EFFECTIVE PERIOD OF DENIAL OF*
4 *PAYMENT.—A finding to deny payment under*
5 *this subsection shall terminate when the State or*
6 *Secretary (as the case may be) finds that the fa-*
7 *cility is in substantial compliance with all the*
8 *requirements of subsections (b), (c), and (d).*

9 “(5) *CONSTRUCTION.—The remedies provided*
10 *under this subsection are in addition to those other-*
11 *wise available under Federal or State law and shall*
12 *not be construed as limiting such other remedies, in-*
13 *cluding any remedy available to an individual at*
14 *common law. The provisions of this subsection shall*
15 *apply to a nursing facility (or portion thereof) not-*
16 *withstanding that the facility (or portion thereof) also*
17 *is a skilled nursing facility for purposes of title XVIII*
18 *or is accredited by an entity pursuant to subsection*
19 *(i)(2).*

20 “(6) *SHARING OF INFORMATION.—Notwithstand-*
21 *ing any other provision of law, all information con-*
22 *cerning nursing facilities required by this section to*
23 *be filed with the Secretary or a State agency shall be*
24 *made available by such facilities to Federal or State*
25 *employees for purposes consistent with the effective*

1 *administration of programs established under this*
2 *title and title XVIII, including investigations by*
3 *State MediGrant fraud control units.*

4 “(i) *CONSTRUCTION.*—

5 “(1) *MEDICARE REQUIREMENTS.*—Where re-
6 *quirements or obligations under this section are iden-*
7 *tical to those provided under section 1819 of this Act,*
8 *the fulfillment of those requirements or obligations*
9 *under section 1819 shall be considered to be the fulfill-*
10 *ment of the corresponding requirements or obligations*
11 *under this section.*

12 “(2) *EFFECT OF ACCREDITATION.*—

13 “(A) *IN GENERAL.*—At the option of a
14 *State, or the Secretary, as appropriate, if a*
15 *nursing facility in the State is accredited by a*
16 *national accrediting entity meeting such stand-*
17 *ards as the State or the Secretary may impose,*
18 *such facility shall be deemed to have met the re-*
19 *quirements of this section and the State shall be*
20 *deemed to have met the survey and certification*
21 *requirements under subsection (g).*

22 “(B) *REQUIREMENT FOR ACCREDITING EN-*
23 *TITY.*—A State or the Secretary, as appropriate,
24 *may not find that an accrediting entity meets*
25 *standards under subparagraph (A) unless such*

1 *entity applies standards for accreditation for fa-*
2 *ilities that meet or exceed the requirements of*
3 *this section.*

4 ***“SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM IN-***
5 ***TEGRITY.***

6 *“(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each*
7 *MediGrant plan shall provide that upon completion of a*
8 *survey of any health care facility or organization by a State*
9 *agency to carry out the plan, the agency shall make public*
10 *in readily available form and place the pertinent findings*
11 *of the survey relating to the compliance of the facility or*
12 *organization with requirements of law.*

13 *“(b) RECORD KEEPING.—Each MediGrant plan shall*
14 *provide for agreements with persons or institutions provid-*
15 *ing services under the plan under which the person or insti-*
16 *tution agrees—*

17 *“(1) to keep such records, including ledgers,*
18 *books, and original evidence of costs, as are necessary*
19 *to fully disclose the extent of the services provided to*
20 *individuals receiving assistance under the plan, and*

21 *“(2) to furnish the State agency with such infor-*
22 *mation regarding any payments claimed by such per-*
23 *son or institution for providing services under the*
24 *plan, as the State agency may from time to time re-*
25 *quest.*

1 *time through transmittal of a plan amendment under this*
2 *section.*

3 “(b) *APPROVAL.—Except as the Secretary may provide*
4 *under section 2154, an amendment to a MediGrant plan*
5 *submitted under subsection (a)—*

6 “(1) *shall be approved for purposes of this title,*
7 *and*

8 “(2) *shall be effective as provided in subsection*
9 *(c).*

10 “(c) *EFFECTIVE DATES FOR AMENDMENTS.—*

11 “(1) *IN GENERAL.—Subject to the succeeding*
12 *provisions of this subsection, an amendment to a*
13 *MediGrant plan shall take effect on one or more effec-*
14 *tive dates specified in the amendment.*

15 “(2) *AMENDMENTS RELATING TO ELIGIBILITY OR*
16 *BENEFITS.—Except as provided in paragraph (4)—*

17 “(A) *NOTICE REQUIREMENT.—Any plan*
18 *amendment that eliminates or restricts eligibility*
19 *or benefits under the plan may not take effect*
20 *unless the State certifies that it has provided*
21 *prior or contemporaneous public notice of the*
22 *change, in a form and manner provided under*
23 *applicable State law.*

24 “(B) *TIMELY TRANSMITTAL.—Any plan*
25 *amendment that eliminates or restricts eligibility*

1 *or benefits under the plan shall not be effective*
2 *for longer than a 60 day period unless the*
3 *amendment has been transmitted to the Sec-*
4 *retary before the end of such period.*

5 “(3) *OTHER AMENDMENTS.*—Subject to para-
6 *graph (4), any plan amendment that is not described*
7 *in paragraph (2) becomes effective in a State fiscal*
8 *year may not remain in effect after the end of such*
9 *fiscal year (or, if later, the end of the 90-day period*
10 *on which it becomes effective) unless the amendment*
11 *has been transmitted to the Secretary.*

12 “(4) *EXCEPTION.*—The requirements of para-
13 *graphs (2) and (3) shall not apply to a plan amend-*
14 *ment that is submitted on a timely basis pursuant to*
15 *a court order or an order of the Secretary.*

16 **“SEC. 2153. PROCESS FOR STATE WITHDRAWAL FROM PRO-**
17 **GRAM.**

18 “(a) *IN GENERAL.*—A State may rescind its
19 *MediGrant plan and discontinue participation in the pro-*
20 *gram under this title at any time after providing—*

21 “(1) *the public with 90 days prior notice in a*
22 *publication in one or more daily newspapers of gen-*
23 *eral circulation in the State or in any publication*
24 *used by the State to publish State statutes or rules,*
25 *and*

1 “(2) *the Secretary with 90 days prior written*
2 *notice.*

3 “(b) *EFFECTIVE DATE.—Such discontinuation shall*
4 *not apply to payments under part C for expenditures made*
5 *for items and services furnished under the MediGrant plan*
6 *before the effective date of the discontinuation.*

7 “(c) *PRORATION OF ALLOTMENTS.—In the case of any*
8 *withdrawal under this section other than at the end of a*
9 *Federal fiscal year, notwithstanding any provision of sec-*
10 *tion 2121 to the contrary, the Secretary shall provide for*
11 *such appropriate proration of the application of allotments*
12 *under section 2121 as is appropriate.*

13 **“SEC. 2154. SANCTIONS FOR NONCOMPLIANCE.**

14 “(a) *PROMPT REVIEW OF PLAN SUBMITTALS.—The*
15 *Secretary shall promptly review MediGrant plans and plan*
16 *amendments submitted under this part to determine if they*
17 *substantially comply with the requirements of this title.*

18 “(b) *DETERMINATIONS OF SUBSTANTIAL NONCOMPLI-*
19 *ANCE.—*

20 “(1) *AT TIME OF PLAN OR AMENDMENT SUBMIT-*
21 *TAL.—*

22 “(A) *IN GENERAL.—If the Secretary, during*
23 *the 30-day period beginning on the date of sub-*
24 *mittal of a MediGrant plan or plan amend-*
25 *ment—*

1 “(i) determines that the plan or
2 amendment substantially violates (within
3 the meaning of subsection (c)) a require-
4 ment of this title, and

5 “(ii) provides written notice of such
6 determination to the State,

7 the Secretary shall issue an order specifying that
8 the plan or amendment, insofar as it is in sub-
9 stantial violation of such a requirement, shall
10 not be effective, except as provided in subsection
11 (c), beginning at the end of a period of not less
12 than 30 days (or 120 days in the case of the ini-
13 tial submission of the MediGrant plan) specified
14 in the order beginning on the date of the notice
15 of the determination.

16 “(B) *EXTENSION OF TIME PERIODS.*—The
17 time periods specified in subparagraph (A) may
18 be extended by written agreement of the Sec-
19 retary and the State involved.

20 “(2) *VIOLATIONS IN ADMINISTRATION OF*
21 *PLAN.*—

22 “(A) *IN GENERAL.*—If the Secretary deter-
23 mines, after reasonable notice and opportunity
24 for a hearing for the State, that in the adminis-
25 tration of a MediGrant plan there is a substan-

1 *tial violation of a requirement of this title, the*
2 *Secretary shall provide the State with written*
3 *notice of the determination and with an order to*
4 *remedy such violation. Such an order shall be-*
5 *come effective prospectively, as specified in the*
6 *order, after the date of receipt of such written*
7 *notice. Such an order may include the withhold-*
8 *ing of funds, consistent with subsection (f), for*
9 *parts of the MediGrant plan affected by such vio-*
10 *lation, until the Secretary is satisfied that the*
11 *violation has been corrected.*

12 *“(B) EFFECTIVENESS.—If the Secretary is-*
13 *ssues an order under paragraph (1), the order*
14 *shall become effective, except as provided in sub-*
15 *section (c), beginning at the end of a period (of*
16 *not less than 30 days) specified in the order be-*
17 *ginning on the date of the notice of the deter-*
18 *mination to the State.*

19 *“(C) TIMELINESS OF DETERMINATIONS RE-*
20 *LATING TO REPORT-BASED COMPLIANCE.—The*
21 *Secretary shall make determinations under this*
22 *paragraph respecting violations relating to infor-*
23 *mation contained in an annual report under sec-*
24 *tion 2102, an independent evaluation under sec-*
25 *tion 2103, or an audit report under section 2131*

1 *not later than 30 days after the date of transmit-*
2 *tal of the report or evaluation to the Secretary.*

3 “(3) *CONSULTATION WITH STATE.*—*Before mak-*
4 *ing a determination adverse to a State under this sec-*
5 *tion, the Secretary shall (within any time periods*
6 *provided under this section)—*

7 “(A) *reasonably consult with the State in-*
8 *volved,*

9 “(B) *offer the State a reasonable oppor-*
10 *tunity to clarify the submission and submit fur-*
11 *ther information to substantiate compliance with*
12 *the requirements of this title, and*

13 “(C) *reasonably consider any such clarifica-*
14 *tions and information submitted.*

15 “(4) *JUSTIFICATION OF ANY INCONSISTENCIES IN*
16 *DETERMINATIONS.*—*If the Secretary makes a deter-*
17 *mination under this section that is, in whole or in*
18 *part, inconsistent with any previous determination*
19 *issued by the Secretary under this title, the Secretary*
20 *shall include in the determination a detailed expla-*
21 *nation and justification for any such difference.*

22 “(5) *SUBSTANTIAL VIOLATION DEFINED.*—*For*
23 *purposes of this title, a MediGrant plan (or amend-*
24 *ment to such a plan) or the administration of the*
25 *MediGrant plan is considered to ‘substantially vio-*

1 *late’ a requirement of this title if a provision of the*
2 *plan or amendment (or an omission from the plan or*
3 *amendment) or the administration of the plan—*

4 *“(A) is material and substantial in nature*
5 *and effect, and*

6 *“(B) is inconsistent with an express re-*
7 *quirement of this title.*

8 *A failure to meet a strategic objective or performance*
9 *goal (as described in section 2101) shall not be con-*
10 *sidered to substantially violate a requirement of this*
11 *title.*

12 *“(c) STATE RESPONSE TO ORDERS.—*

13 *“(1) STATE RESPONSE BY REVISING PLAN.—*

14 *“(A) IN GENERAL.—Insofar as an order*
15 *under subsection (b)(1) relates to a substantial*
16 *violation by a MediGrant plan or plan amend-*
17 *ment, a State may respond (before the date the*
18 *order becomes effective) to such an order by sub-*
19 *mitting a written revision of the MediGrant*
20 *plan or plan amendment to substantially comply*
21 *with the requirements of this part.*

22 *“(B) REVIEW OF REVISION.—In the case of*
23 *submission of such a revision, the Secretary shall*
24 *promptly review the submission and shall with-*

1 *hold any action on the order during the period*
2 *of such review.*

3 “(C) *SECRETARIAL RESPONSE.—The revi-*
4 *sion shall be considered to have corrected the de-*
5 *ficiency (and the order rescinded insofar as it re-*
6 *lates to such deficiency) unless the Secretary de-*
7 *termines and notifies the State in writing, with-*
8 *in 15 days after the date the Secretary receives*
9 *the revision, that the MediGrant plan or amend-*
10 *ment, as proposed to be revised, still substan-*
11 *tially violates a requirement of this title. In such*
12 *case the State may respond by seeking reconsid-*
13 *eration or a hearing under paragraph (2).*

14 “(D) *REVISION RETROACTIVE.—If the revi-*
15 *sion provides for substantial compliance, the re-*
16 *vision may be treated, at the option of the State,*
17 *as being effective either as of the effective date of*
18 *the provision to which it relates or such later*
19 *date as the State and Secretary may agree.*

20 “(2) *STATE RESPONSE BY SEEKING RECONSIDER-*
21 *ATION OR AN ADMINISTRATIVE HEARING.—A State*
22 *may respond to an order under subsection (b) by fil-*
23 *ing a request with the Secretary for—*

24 “(A) *a reconsideration of the determination,*
25 *pursuant to subsection (d)(1), or*

1 “(B) a review of the determination through
2 an administrative hearing, pursuant to sub-
3 section (d)(2).

4 *In such case, the order shall not take effect before the*
5 *completion of the reconsideration or hearing.*

6 “(3) STATE RESPONSE BY CORRECTIVE ACTION
7 PLAN.—

8 “(A) IN GENERAL.—*In the case of an order*
9 *described in subsection (b)(2) that relates to a*
10 *substantial violation in the administration of the*
11 *MediGrant plan, a State may respond to such*
12 *an order by submitting a corrective action plan*
13 *with the Secretary to correct deficiencies in the*
14 *administration of the plan which are the subject*
15 *of the order.*

16 “(B) REVIEW OF CORRECTIVE ACTION
17 PLAN.—*In such case, the Secretary shall with-*
18 *hold any action on the order for a period (not*
19 *to exceed 30 days) during which the Secretary*
20 *reviews the corrective action plan.*

21 “(C) SECRETARIAL RESPONSE.—*The correc-*
22 *tive action plan shall be considered to have cor-*
23 *rected the deficiency (and the order rescinded in-*
24 *sofar as it relates to such deficiency) unless the*
25 *Secretary determines and notifies the State in*

1 *writing, within 15 days after the date the Sec-*
2 *retary receives the corrective action plan, that*
3 *the State’s administration of the MediGrant*
4 *plan, as proposed to be corrected in the plan,*
5 *will still substantially violate a requirement of*
6 *this title. In such case the State may respond by*
7 *seeking reconsideration or a hearing under para-*
8 *graph (2).*

9 “(4) *STATE RESPONSE BY WITHDRAWAL OF PLAN*
10 *AMENDMENT; FAILURE TO RESPOND.—Insofar as an*
11 *order relates to a substantial violation in a plan*
12 *amendment submitted, a State may respond to such*
13 *an order by withdrawing the plan amendment and*
14 *the MediGrant plan shall be treated as though the*
15 *amendment had not been made.*

16 “(d) *ADMINISTRATIVE REVIEW AND HEARING.—*

17 “(1) *RECONSIDERATION.—Within 30 days after*
18 *the date of receipt of a request under subsection*
19 *(b)(2)(A), the Secretary shall notify the State of the*
20 *time and place at which a hearing will be held for*
21 *the purpose of reconsidering the Secretary’s deter-*
22 *mination. The hearing shall be held not less than 20*
23 *days nor more than 60 days after the date notice of*
24 *the hearing is furnished to the State, unless the Sec-*
25 *retary and the State agree in writing to holding the*

1 *hearing at another time. The Secretary shall affirm,*
2 *modify, or reverse the original determination within*
3 *60 days of the conclusion of the hearing.*

4 “(2) *ADMINISTRATIVE HEARING.*—*Within 30*
5 *days after the date of receipt of a request under sub-*
6 *section (b)(2)(B), an administrative law judge shall*
7 *schedule a hearing for the purpose of reviewing the*
8 *Secretary’s determination. The hearing shall be held*
9 *not less than 20 days nor more than 60 days after the*
10 *date notice of the hearing is furnished to the State,*
11 *unless the Secretary and the State agree in writing*
12 *to holding the hearing at another time. The adminis-*
13 *trative law judge shall affirm, modify, or reverse the*
14 *determination within 60 days of the conclusion of the*
15 *hearing.*

16 “(e) *JUDICIAL REVIEW.*—

17 “(1) *IN GENERAL.*—*A State which is dissatisfied*
18 *with a final determination made by the Secretary*
19 *under subsection (d)(1) or a final determination of an*
20 *administrative law judge under subsection (d)(2)*
21 *may, within 60 days after it has been notified of such*
22 *determination, file with the United States court of*
23 *appeals for the circuit in which the State is located*
24 *a petition for review of such determination. A copy*
25 *of the petition shall be forthwith transmitted by the*

1 *clerk of the court to the Secretary and, in the case of*
2 *a determination under subsection (d)(2), to the ad-*
3 *ministrative law judge involved. The Secretary (or*
4 *judge involved) thereupon shall file in the court the*
5 *record of the proceedings on which the final deter-*
6 *mination was based, as provided in section 2112 of*
7 *title 28, United States Code. Only the Secretary, in*
8 *accordance with this title, may compel a State under*
9 *Federal law to comply with the provisions of this title*
10 *or a MediGrant plan, or otherwise enforce a provision*
11 *of this title against a State, and no action may be*
12 *filed under Federal law against a State in relation to*
13 *the State's compliance, or failure to comply, with the*
14 *provisions of this title or of a MediGrant plan except*
15 *by the Secretary as provided under this subsection.*

16 *“(2) STANDARD FOR REVIEW.—The findings of*
17 *fact by the Secretary or administrative law judge, if*
18 *supported by substantial evidence, shall be conclusive,*
19 *but the court, for good cause shown, may remand the*
20 *case to the Secretary or judge to take further evidence,*
21 *and the Secretary or judge may thereupon make new*
22 *or modified findings of fact and may modify a pre-*
23 *vious determination, and shall certify to the court the*
24 *transcript and record of the further proceedings. Such*

1 *new or modified findings of fact shall likewise be con-*
2 *clusive if supported by substantial evidence.*

3 “(3) *JURISDICTION OF APPELLATE COURT.*—*The*
4 *court shall have jurisdiction to affirm the action of*
5 *the Secretary or judge or to set it aside, in whole or*
6 *in part. The judgment of the court shall be subject to*
7 *review by the Supreme Court of the United States*
8 *upon certiorari or certification as provided in section*
9 *1254 of title 28, United States Code.*

10 “(f) *WITHHOLDING OF FUNDS.*—

11 “(1) *IN GENERAL.*—*Any order under this section*
12 *relating to the withholding of funds shall be effective*
13 *not earlier than the effective date of the order and*
14 *shall only relate to the portions of a MediGrant plan*
15 *or administration thereof which substantially violate*
16 *a requirement of this title. In the case of a failure to*
17 *meet a set-aside requirement under section 2112, any*
18 *withholding shall only apply to the extent of such*
19 *failure.*

20 “(2) *SUSPENSION OF WITHHOLDING.*—*The Sec-*
21 *retary may suspend withholding of funds under para-*
22 *graph (1) during the period reconsideration or ad-*
23 *ministrative and judicial review is pending under*
24 *subsection (d) or (e).*

1 “(3) *RESTORATION OF FUNDS.*—*Any funds with-*
2 *held under this subsection under an order shall be im-*
3 *mediately restored to a State—*

4 “(A) *to the extent and at the time the order*
5 *is—*

6 “(i) *modified or withdrawn by the Sec-*
7 *retary upon reconsideration,*

8 “(ii) *modified or reversed by an ad-*
9 *ministrative law judge, or*

10 “(iii) *set aside (in whole or in part) by*
11 *an appellate court; or*

12 “(B) *when the Secretary determines that the*
13 *deficiency which was the basis for the order is*
14 *corrected;*

15 “(C) *when the Secretary determines that*
16 *violation which was the basis for the order is re-*
17 *solved or the amendment which was the basis for*
18 *the order is withdrawn; or*

19 “(D) *at any time upon the initiative of the*
20 *Secretary.*

21 “(g) *INDIVIDUAL COMPLAINT PROCESS.*—*The Sec-*
22 *retary shall provide for a process under which an individ-*
23 *ual may notify the Secretary concerning a State’s failure*
24 *to provide medical assistance as required under the State*
25 *MediGrant plan or otherwise comply with the requirements*

1 of this title or such plan. If the Secretary finds that there
2 is a pattern of complaints with respect to a State or that
3 a particular failure or finding of noncompliance is egre-
4 gious, the Secretary shall notify the chief executive officer
5 of the State of such finding and shall notify the Congress
6 if the State fails to respond to such notification within a
7 reasonable period of time.

8 **“SEC. 2155. SECRETARIAL AUTHORITY.**

9 “(a) *NEGOTIATED AGREEMENT AND DISPUTE RESO-*
10 *LUTION.—*

11 “(1) *NEGOTIATIONS.—Nothing in this part shall*
12 *be construed as preventing the Secretary and a State*
13 *from at any time negotiating a satisfactory resolution*
14 *to any dispute concerning the approval of a*
15 *MediGrant plan (or amendments to a MediGrant*
16 *plan) or the compliance of a MediGrant plan (includ-*
17 *ing its administration) with requirements of this*
18 *title.*

19 “(2) *COOPERATION.—The Secretary shall act in*
20 *a cooperative manner with the States in carrying out*
21 *this title. In the event of a dispute between a State*
22 *and the Secretary, the Secretary shall, whenever prac-*
23 *ticable, engage in informal dispute resolution activi-*
24 *ties in lieu of formal enforcement or sanctions under*
25 *section 2154.*

1 “(b) *LIMITATIONS ON DELEGATION OF DECISION-MAK-*
2 *ING AUTHORITY.*—*The Secretary may not delegate (other*
3 *than to the Administrator of the Health Care Financing*
4 *Administration) the authority to make determinations or*
5 *reconsiderations respecting the approval of MediGrant*
6 *plans (or amendments to such plans) or the compliance of*
7 *a MediGrant plan (including its administration) with re-*
8 *quirements of this title. Such Administrator may not fur-*
9 *ther delegate such authority to any individual, including*
10 *any regional official of such Administration.*

11 “(c) *REQUIRING FORMAL RULEMAKING FOR CHANGES*
12 *IN SECRETARIAL ADMINISTRATION.*—*The Secretary shall*
13 *carry out the administration of the program under this title*
14 *only through a prospective formal rulemaking process, in-*
15 *cluding issuing notices of proposed rulemaking, publishing*
16 *proposed rules or modifications to rules in the Federal Reg-*
17 *ister, and soliciting public comment.*

18 “*PART F—GENERAL PROVISIONS*

19 “***SEC. 2171. DEFINITIONS.***

20 “(a) *MEDICAL ASSISTANCE.*—*For purposes of this*
21 *title, the term ‘medical assistance’ means payment of part*
22 *or all of the cost of any of the following, or assistance in*
23 *the purchase, in whole or in part, of health benefit coverage*
24 *that includes any of the following, for eligible low-income*

1 *individuals (as defined in subsection (b)) as specified under*
2 *the MediGrant plan:*

3 “(1) *Inpatient hospital services.*

4 “(2) *Outpatient hospital services.*

5 “(3) *Physician services.*

6 “(4) *Surgical services.*

7 “(5) *Clinic services and other ambulatory health*
8 *care services.*

9 “(6) *Nursing facility services.*

10 “(7) *Intermediate care facility services for the*
11 *mentally retarded.*

12 “(8) *Prescription drugs and biologicals and the*
13 *administration of such drugs and biologicals, only if*
14 *such drugs and biologicals are not furnished for the*
15 *purpose of causing, or assisting in causing, the death,*
16 *suicide, euthanasia, or mercy killing of a person.*

17 “(9) *Over-the-counter medications.*

18 “(10) *Laboratory and radiological services.*

19 “(11) *Family planning services and supplies.*

20 “(12) *Inpatient mental health services, including*
21 *services furnished in a State-operated mental hospital*
22 *and including residential or other 24-hour therapeuti-*
23 *cally planned structured services in the case of a*
24 *child.*

1 “(13) *Outpatient mental health services, includ-*
2 *ing services furnished in a State-operated mental hos-*
3 *pital and including community-based services in the*
4 *case of a child.*

5 “(14) *Durable medical equipment and other*
6 *medically-related or remedial devices (such as pros-*
7 *thetic devices, implants, eyeglasses, hearing aids, den-*
8 *tal devices, and adaptive devices).*

9 “(15) *Disposable medical supplies.*

10 “(16) *Home and community-based health care*
11 *services and related supportive services (such as home*
12 *health nursing services, home health aide services,*
13 *personal care, assistance with activities of daily liv-*
14 *ing, chore services, day care services, respite care serv-*
15 *ices, training for family members, and minor modi-*
16 *fications to the home).*

17 “(17) *Community supported living arrange-*
18 *ments.*

19 “(18) *Nursing care services (such as nurse prac-*
20 *titioner services, nurse midwife services, advanced*
21 *practice nurse services, private duty nursing care, pe-*
22 *diatric nurse services, and respiratory care services)*
23 *in a home, school, or other setting.*

1 “(19) *Abortion only if necessary to save the life*
2 *of the mother or if the pregnancy is the result of an*
3 *act of rape or incest.*

4 “(20) *Dental services.*

5 “(21) *Inpatient substance abuse treatment serv-*
6 *ices and residential substance abuse treatment serv-*
7 *ices.*

8 “(22) *Outpatient substance abuse treatment serv-*
9 *ices.*

10 “(23) *Case management services.*

11 “(24) *Care coordination services.*

12 “(25) *Physical therapy, occupational therapy,*
13 *and services for individuals with speech, hearing, and*
14 *language disorders.*

15 “(26) *Hospice care.*

16 “(27) *Any other medical, diagnostic, screening,*
17 *preventive, restorative, remedial, therapeutic, or reha-*
18 *bilitative services (whether in a facility, home, school,*
19 *or other setting) if recognized by State law and only*
20 *if the service is—*

21 “(A) *prescribed by or furnished by a physi-*
22 *cian or other licensed or registered practitioner*
23 *within the scope of practice as defined by State*
24 *law,*

1 “(B) performed under the general super-
2 vision or at the direction of a physician, or

3 “(C) furnished by a health care facility that
4 is operated by a State or local government or is
5 licensed under State law and operating within
6 the scope of the license.

7 “(28) Premiums for private health care insur-
8 ance coverage, including private long-term care insur-
9 ance coverage.

10 “(29) Medical transportation.

11 “(30) Medicare cost-sharing (as defined in sub-
12 section (c)).

13 “(31) Enabling services (such as transportation,
14 translation, and outreach services) only if designed to
15 increase the accessibility of primary and preventive
16 health care services for eligible low-income individ-
17 uals.

18 “(32) Any other health care services or items
19 specified by the Secretary and not excluded under this
20 section.

21 “(b) *ELIGIBLE LOW-INCOME INDIVIDUAL.*—

22 “(1) *IN GENERAL.*—The term ‘eligible low-in-
23 come individual’ means an individual—

24 “(A) who has been determined eligible by
25 the State for medical assistance under the

1 *MediGrant plan and is not an inmate of a pub-*
2 *lic institution (except as a patient in a State*
3 *psychiatric hospital), and*

4 *“(B) whose family income (as determined*
5 *under the plan) does not exceed a percentage*
6 *(specified in the MediGrant plan and not to ex-*
7 *ceed 275 percent) of the poverty line for a family*
8 *of the size involved.*

9 *“(2) AMOUNT OF INCOME.—In determining the*
10 *amount of income under paragraph (1)(B), a State*
11 *may exclude costs incurred for medical care or other*
12 *types of remedial care recognized by the State.*

13 *“(c) MEDICARE COST-SHARING.—For purposes of this*
14 *title, the term ‘medicare cost-sharing’ means any of the fol-*
15 *lowing:*

16 *“(1)(A) Premiums under section 1839.*

17 *“(B) Premiums under section 1818 or 1818A.*

18 *“(2) Coinsurance under title XVIII (including*
19 *coinsurance described in section 1813).*

20 *“(3) Deductibles established under title XVIII*
21 *(including those described in sections 1813 and*
22 *1833(b)).*

23 *“(4) The difference between the amount that is*
24 *paid under section 1833(a) and the amount that*
25 *would be paid under such section if any reference to*

1 ‘80 percent’ therein were deemed a reference to ‘100
2 percent’.

3 “(5) *Premiums for enrollment of an individual*
4 *with an eligible organization under section 1876 or*
5 *with a MedicarePlus organization under part C of*
6 *title XVIII.*

7 “(d) *ADDITIONAL DEFINITIONS.—For purposes of this*
8 *title:*

9 “(1) *CHILD.—The term ‘child’ means an indi-*
10 *vidual under 19 years of age.*

11 “(2) *ELDERLY INDIVIDUAL.—The term ‘elderly*
12 *individual’ means an individual who has attained re-*
13 *tirement age, as defined under section 216(l)(1).*

14 “(3) *POVERTY LINE DEFINED.—The term ‘pov-*
15 *erty line’ has the meaning given such term in section*
16 *673(2) of the Community Services Block Grant Act*
17 *(42 U.S.C. 9902(2)), including any revision required*
18 *by such section).*

19 “(4) *PREGNANT WOMAN.—The term ‘pregnant*
20 *woman’ includes a woman during the 60-day period*
21 *beginning on the last day of the pregnancy.*

22 **“SEC. 2172. TREATMENT OF TERRITORIES.**

23 “*Notwithstanding any other requirement of this title,*
24 *the Secretary may waive or modify any requirement of this*
25 *title with respect to the medical assistance program for a*

1 *State other than the 50 States and the District of Columbia,*
2 *other than a waiver of—*

3 “(1) *the applicable Federal medical assistance*
4 *percentage,*

5 “(2) *the limitation on total payments in a fiscal*
6 *year to the amount of the allotment under section*
7 *2121(c), or*

8 “(3) *the requirement that payment may be made*
9 *for medical assistance only with respect to amounts*
10 *expended by the State for care and services described*
11 *in section 2171(a) and medically-related services (as*
12 *defined in section 2112(e)(2)).*

13 **“SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN**
14 **HEALTH SERVICE FACILITIES.**

15 *“In the case of a State in which one or more facilities*
16 *of the Indian Health Service are located, the MediGrant*
17 *plan shall include a description of—*

18 “(1) *what provision (if any) has been made for*
19 *payment for items and services furnished by such fa-*
20 *cilities, and*

21 “(2) *the manner in which medical assistance for*
22 *low-income eligible individuals who are Indians will*
23 *be provided, as determined by the State in consulta-*
24 *tion with the appropriate Indian tribes and tribal or-*
25 *ganizations.*

1 **“SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVI-**
2 **SIONS.**

3 *“The following sections in part A of title XI shall*
4 *apply to States under this title in the same manner as they*
5 *applied to a State under title XIX:*

6 *“(1) Section 1101(a)(1) (relating to definition of*
7 *State).*

8 *“(2) Section 1116 (relating to administrative*
9 *and judicial review), but only insofar as consistent*
10 *with the provisions of part C.*

11 *“(3) Section 1124 (relating to disclosure of own-*
12 *ership and related information).*

13 *“(4) Section 1126 (relating to disclosure of infor-*
14 *mation about certain convicted individuals).*

15 *“(5) Section 1128B(d) (relating to criminal pen-*
16 *alties for certain additional charges).*

17 *“(6) Section 1132 (relating to periods within*
18 *which claims must be filed).*

19 **“SEC. 2175. MEDIGRANT MASTER DRUG REBATE AGREE-**
20 **MENTS.**

21 *“(a) REQUIREMENT FOR MANUFACTURER TO ENTER*
22 *INTO AGREEMENT.—*

23 *“(1) IN GENERAL.—Pursuant to section 2123(f),*
24 *in order for payment to be made to a State under*
25 *part C for medical assistance for covered outpatient*
26 *drugs of a manufacturer, the manufacturer shall enter*

1 *into and have in effect a MediGrant master rebate*
2 *agreement described in subsection (b) with the Sec-*
3 *retary on behalf of States electing to participate in*
4 *the agreement.*

5 *“(2) COVERAGE OF DRUGS NOT COVERED UNDER*
6 *REBATE AGREEMENTS.—Nothing in this section shall*
7 *be construed to prohibit a State in its discretion from*
8 *providing coverage under its MediGrant plan of a*
9 *covered outpatient drug for which no rebate agree-*
10 *ment is in effect under this section.*

11 *“(3) EFFECT ON EXISTING AGREEMENTS.—If a*
12 *State has a rebate agreement in effect with a manu-*
13 *facturer on the date of the enactment of this section*
14 *which provides for a minimum aggregate rebate equal*
15 *to or greater than the minimum aggregate rebate*
16 *which would otherwise be paid under the MediGrant*
17 *master agreement under this section, at the option of*
18 *the State—*

19 *“(A) such agreement shall be considered to*
20 *meet the requirements of the MediGrant master*
21 *rebate agreement, and*

22 *“(B) the State shall be considered to have*
23 *elected to participate in the MediGrant master*
24 *rebate agreement.*

1 “(4) *LIMITATION ON PRICES OF DRUGS PUR-*
2 *CHASED BY COVERED ENTITIES.—*

3 “(A) *AGREEMENT WITH SECRETARY.—A*
4 *manufacturer meets the requirements of this*
5 *paragraph if the manufacturer has entered into*
6 *an agreement with the Secretary that meets the*
7 *requirements of section 340B of the Public*
8 *Health Service Act with respect to covered out-*
9 *patient drugs purchased by a covered entity on*
10 *or after the first day of the first month that be-*
11 *gins after the date of the enactment of title VI*
12 *of the Veterans Health Care Act of 1992.*

13 “(B) *COVERED ENTITY DEFINED.—In this*
14 *subsection, the term ‘covered entity’ means an*
15 *entity described in section 340B(a)(4) of the*
16 *Public Health Service Act provided that—*

17 “(i) *an entity is licensed by the State*
18 *to purchase and take possession of covered*
19 *outpatient drugs and furnishes the drugs to*
20 *patients at a cost no greater than acquisi-*
21 *tion plus such dispensing fee as may be al-*
22 *lowable under a State pharmaceutical as-*
23 *stance program, and*

24 “(ii) *such entity is certified pursuant*
25 *to section 340B(a)(7) of such Act.*

1 “(C) *ESTABLISHMENT OF ALTERNATIVE*
2 *MECHANISM TO ENSURE AGAINST DUPLICATE*
3 *DISCOUNTS OR REBATES.*—*If the Secretary does*
4 *not establish a mechanism under section*
5 *340B(a)(5)(A) of the Public Health Service Act*
6 *within 12 months of the date of the enactment of*
7 *such section, the following requirements shall*
8 *apply:*

9 “(i) *Each covered entity shall inform*
10 *the single State agency under this title*
11 *when it is seeking reimbursement from the*
12 *medicaid plan for medical assistance with*
13 *respect to a unit of any covered outpatient*
14 *drug which is subject to an agreement under*
15 *section 340B(a) of such Act.*

16 “(ii) *Each such single State agency*
17 *shall provide a means by which a covered*
18 *entity shall indicate on any drug reim-*
19 *bursement claims form (or format, where*
20 *electronic claims management is used) that*
21 *a unit of the drug that is the subject of the*
22 *form is subject to an agreement under sec-*
23 *tion 340B of such Act, and not submit to*
24 *any manufacturer a claim for a rebate pay-*

1 *ment under subsection (b) with respect to*
2 *such a drug.*

3 “(D) *EFFECT OF SUBSEQUENT AMEND-*
4 *MENTS.—In determining whether an agreement*
5 *under subparagraph (A) meets the requirements*
6 *of section 340B of the Public Health Service Act,*
7 *the Secretary shall not take into account any*
8 *amendments to such section that are enacted*
9 *after the enactment of title VI of the Veterans*
10 *Health Care Act of 1992.*

11 “(E) *DETERMINATION OF COMPLIANCE.—A*
12 *manufacturer is deemed to meet the requirements*
13 *of this paragraph if the manufacturer establishes*
14 *to the satisfaction of the Secretary that the man-*
15 *ufacturer would comply (and has offered to com-*
16 *ply) with the provisions of section 340B of the*
17 *Public Health Service Act (as in effect imme-*
18 *diately after the enactment title VI of the Veter-*
19 *ans Health Care Act of 1992, and would have*
20 *entered into an agreement under such section (as*
21 *such section was in effect at such time), but for*
22 *a legislative change in such section after such en-*
23 *actment.*

24 “(b) *TERMS OF REBATE AGREEMENT.—*

1 “(1) *PERIODIC REBATES.*—*The MediGrant mas-*
2 *ter rebate agreement under this section shall require*
3 *the manufacturer to provide, to the MediGrant plan*
4 *of each State participating in the agreement, a rebate*
5 *for a rebate period in an amount specified in sub-*
6 *section (c) for covered outpatient drugs of the manu-*
7 *facturer dispensed after the effective date of the agree-*
8 *ment, for which payment was made under the plan*
9 *for such period. Such rebate shall be paid by the man-*
10 *ufacturer not later than 30 days after the date of re-*
11 *ceipt of the information described in paragraph (2)*
12 *for the period involved.*

13 “(2) *STATE PROVISION OF INFORMATION.*—

14 “(A) *STATE RESPONSIBILITY.*—*Each State*
15 *participating in the MediGrant master rebate*
16 *agreement shall report to each manufacturer not*
17 *later than 60 days after the end of each rebate*
18 *period and in a form consistent with a standard*
19 *reporting format established by the Secretary, in-*
20 *formation on the total number of units of each*
21 *dosage form and strength and package size of*
22 *each covered outpatient drug, for which payment*
23 *was made under the MediGrant plan for the pe-*
24 *riod, and shall promptly transmit a copy of such*
25 *report to the Secretary.*

1 “(B) *AUDITS.*—A manufacturer may audit
2 the information provided (or required to be pro-
3 vided) under subparagraph (A). Adjustments to
4 rebates shall be made to the extent that informa-
5 tion indicates that utilization was greater or less
6 than the amount previously specified.

7 “(3) *MANUFACTURER PROVISION OF PRICE IN-*
8 *FORMATION.*—

9 “(A) *IN GENERAL.*—Each manufacturer
10 which is subject to the MediGrant master rebate
11 agreement under this section shall report to the
12 Secretary—

13 “(i) not later than 30 days after the
14 last day of each rebate period under the
15 agreement, on the average manufacturer
16 price (as defined in subsection (i)(1)) and,
17 for single source drugs and innovator mul-
18 tiple source drugs, the manufacturer’s best
19 price (as defined in subsection (c)(1)(C)) for
20 each covered outpatient drug for the rebate
21 period under the agreement, and

22 “(ii) not later than 30 days after the
23 date of entering into an agreement under
24 this section, on the average manufacturer
25 price (as defined in subsection (i)(1)) as of

1 *October 1, 1990, for each of the manufactur-*
2 *er's covered outpatient drugs.*

3 *“(B) VERIFICATION SURVEYS OF AVERAGE*
4 *MANUFACTURER PRICE.—The Secretary may*
5 *survey wholesalers and manufacturers that di-*
6 *rectly distribute their covered outpatient drugs,*
7 *when necessary, to verify manufacturer prices re-*
8 *ported under subparagraph (A). The Secretary*
9 *may impose a civil monetary penalty in an*
10 *amount not to exceed \$10,000 on a wholesaler,*
11 *manufacturer, or direct seller, if the wholesaler,*
12 *manufacturer, or direct seller of a covered out-*
13 *patient drug refuses a request for information by*
14 *the Secretary in connection with a survey under*
15 *this subparagraph. The provisions of section*
16 *1128A (other than subsections (a) (with respect*
17 *to amounts of penalties or additional assess-*
18 *ments) and (b)) shall apply to a civil money*
19 *penalty under this subparagraph in the same*
20 *manner as such provisions apply to a penalty or*
21 *proceeding under section 1128A(a).*

22 *“(C) PENALTIES.—*

23 *“(i) FAILURE TO PROVIDE TIMELY IN-*
24 *FORMATION.—In the case of a manufacturer*
25 *which is subject to the MediGrant master*

1 *rebate agreement that fails to provide infor-*
2 *mation required under subparagraph (A)*
3 *on a timely basis, the amount of the penalty*
4 *shall be \$10,000 for each day in which such*
5 *information has not been provided and such*
6 *amount shall be paid to the Treasury. If*
7 *such information is not reported within 90*
8 *days of the deadline imposed, the agreement*
9 *shall be suspended for services furnished*
10 *after the end of such 90-day period and*
11 *until the date such information is reported*
12 *(but in no case shall such suspension be for*
13 *a period of less than 30 days).*

14 “(ii) *FALSE INFORMATION.—Any man-*
15 *ufacturer which is subject to the MediGrant*
16 *master rebate agreement, or a wholesaler or*
17 *direct seller, that knowingly provides false*
18 *information under subparagraph (A) or (B)*
19 *is subject to a civil money penalty in an*
20 *amount not to exceed \$100,000 for each*
21 *item of false information. Any such civil*
22 *money penalty shall be in addition to other*
23 *penalties as may be prescribed by law. The*
24 *provisions of section 1128A (other than sub-*
25 *sections (a) and (b)) shall apply to a civil*

1 *money penalty under this subparagraph in*
2 *the same manner as such provisions apply*
3 *to a penalty or proceeding under section*
4 *1128A(a).*

5 “(D) *CONFIDENTIALITY OF INFORMATION.*—

6 *Notwithstanding any other provision of law, in-*
7 *formation disclosed by manufacturers or whole-*
8 *salers under this paragraph or under an agree-*
9 *ment with the Secretary of Veterans Affairs de-*
10 *scribed in section 2123(f) is confidential and*
11 *shall not be disclosed by the Secretary or the Sec-*
12 *retary of Veterans Affairs or a State agency (or*
13 *contractor therewith) in a form which discloses*
14 *the identity of a specific manufacturer or whole-*
15 *saler or the prices charged for drugs by such*
16 *manufacturer or wholesaler, except—*

17 “(i) *as the Secretary determines to be*
18 *necessary to carry out this section,*

19 “(ii) *to permit the Comptroller General*
20 *to review the information provided, and*

21 “(iii) *to permit the Director of the*
22 *Congressional Budget Office to review the*
23 *information provided.*

24 “(4) *LENGTH OF AGREEMENT.*—

1 “(A) *IN GENERAL.*—*The MediGrant master*
2 *rebate agreement under this section shall be effec-*
3 *tive for an initial period of not less than 1 year*
4 *and shall be automatically renewed for a period*
5 *of not less than one year unless terminated under*
6 *subparagraph (B).*

7 “(B) *TERMINATION.*—

8 “(i) *BY THE SECRETARY.*—*The Sec-*
9 *retary may provide for termination of the*
10 *MediGrant master rebate agreement with*
11 *respect to a manufacturer for violation of*
12 *the requirements of the agreement or other*
13 *good cause shown. Such termination shall*
14 *not be effective earlier than 60 days after*
15 *the date of notice of such termination. The*
16 *Secretary shall provide, upon request, a*
17 *manufacturer with a hearing concerning*
18 *such a termination, but such hearing shall*
19 *not delay the effective date of the termi-*
20 *nation. Failure of a State to provide any*
21 *advance notice of such a termination as re-*
22 *quired by regulation shall not affect the*
23 *State’s right to terminate coverage of the*
24 *drugs affected by such termination as of the*
25 *effective date of such termination.*

1 “(ii) *BY A MANUFACTURER.*—*A manu-*
2 *facturer may terminate its participation in*
3 *the MediGrant master rebate agreement*
4 *under this section for any reason. Any such*
5 *termination shall not be effective until the*
6 *calendar quarter beginning at least 60 days*
7 *after the date the manufacturer provides no-*
8 *tice to the Secretary.*

9 “(iii) *EFFECTIVENESS OF TERMI-*
10 *NATION.*—*Any termination under this sub-*
11 *paragraph shall not affect rebates due under*
12 *the agreement before the effective date of its*
13 *termination.*

14 “(iv) *NOTICE TO STATES.*—*In the case*
15 *of a termination under this subparagraph,*
16 *the Secretary shall provide notice of such*
17 *termination to the States within not less*
18 *than 30 days before the effective date of such*
19 *termination.*

20 “(v) *APPLICATION TO TERMINATIONS*
21 *OF OTHER AGREEMENTS.*—*The provisions of*
22 *this subparagraph shall apply to the termi-*
23 *nations of master agreements described in*
24 *section 8126(a) of title 38, United States*
25 *Code.*

1 “(C) *DELAY BEFORE REENTRY.*—*In the case*
2 *of any rebate agreement with a manufacturer*
3 *under this section which is terminated, another*
4 *such agreement with the manufacturer (or a suc-*
5 *cessor manufacturer) may not be entered into*
6 *until a period of 1 calendar quarter has elapsed*
7 *since the date of the termination, unless the Sec-*
8 *retary finds good cause for an earlier reinstatement*
9 *of such an agreement.*

10 “(5) *SETTLEMENT OF DISPUTES.*—

11 “(A) *SECRETARY.*—*The Secretary shall*
12 *have the authority to resolve, settle, and com-*
13 *promise disputes regarding the amounts of re-*
14 *bates owed under this section and section 1927.*

15 “(B) *STATE.*—*Each State, with respect to*
16 *covered outpatient drugs paid for under the*
17 *State’s MediGrant plan, shall have authority,*
18 *independent of the Secretary’ authority under*
19 *subparagraph (A), to resolve, settle, and com-*
20 *promise disputes regarding the amounts of re-*
21 *bates owed under this section. Any such action*
22 *shall be deemed to comply with the requirements*
23 *of this title, and such covered outpatient drugs*
24 *shall be eligible for payment under the*
25 *MediGrant plan under this title.*

1 “(C) *AMOUNT OF REBATE.*—*The Secretary*
2 *shall limit the amount of the rebate payable in*
3 *any case in which the Secretary determines that,*
4 *because of unusual circumstances or questionable*
5 *data, the provisions of subsection (c) result in a*
6 *rebate amount that is inequitable or otherwise*
7 *inconsistent with the purposes of this section.*

8 “(c) *DETERMINATION OF AMOUNT OF REBATE.*—

9 “(1) *BASIC REBATE FOR SINGLE SOURCE DRUGS*
10 *AND INNOVATOR MULTIPLE SOURCE DRUGS.*—

11 “(A) *IN GENERAL.*—*Except as provided in*
12 *paragraph (2), the amount of the rebate specified*
13 *in this subsection with respect to a State partici-*
14 *pating in the MediGrant master rebate agree-*
15 *ment for a rebate period (as defined in sub-*
16 *section (i)(7)) with respect to each dosage form*
17 *and strength of a single source drug or an inno-*
18 *vator multiple source drug shall be equal to the*
19 *product of—*

20 “(i) *the total number of units of each*
21 *dosage form and strength paid for under the*
22 *State MediGrant plan in the rebate period*
23 *(as reported by the State); and*

24 “(ii) *the greater of—*

1 “(I) the difference between the av-
2 erage manufacturer price and the best
3 price (as defined in subparagraph (C))
4 for the dosage form and strength of the
5 drug, or

6 “(II) the minimum rebate per-
7 centage (specified in subparagraph
8 (B)) of such average manufacturer
9 price,

10 for the rebate period.

11 “(B) *MINIMUM REBATE PERCENTAGE.*—For
12 purposes of subparagraph (A)(i)(II), the ‘mini-
13 mum rebate percentage’ is 15 percent.

14 “(C) *BEST PRICE DEFINED.*—For purposes
15 of this section—

16 “(i) *IN GENERAL.*—The term ‘best
17 price’ means, with respect to a single source
18 drug or innovator multiple source drug of a
19 manufacturer, the lowest price available
20 from the manufacturer during the rebate pe-
21 riod to any wholesaler, retailer, provider,
22 health maintenance organization, nonprofit
23 entity, or governmental entity within the
24 United States, excluding—

1 “(I) any prices charged on or
2 after October 1, 1992, to the Indian
3 Health Service, the Department of Vet-
4 erans Affairs, a State home receiving
5 funds under section 1741 of title 38,
6 United States Code, the Department of
7 Defense, the Public Health Service, or
8 a covered entity described in section
9 340B(a)(4) of the Public Health Serv-
10 ice Act,

11 “(II) any prices charged under
12 the Federal Supply Schedule of the
13 General Services Administration,

14 “(III) any prices used under a
15 State pharmaceutical assistance pro-
16 gram, and

17 “(IV) any depot prices and single
18 award contract prices, as defined by
19 the Secretary, of any agency of the
20 Federal Government.

21 “(ii) SPECIAL RULES.—The term ‘best
22 price’—

23 “(I) shall be inclusive of cash dis-
24 counts, free goods that are contingent
25 on any purchase requirement, volume

1 *discounts, and rebates (other than re-*
2 *bates under this section),*

3 *“(II) shall be determined without*
4 *regard to special packaging, labeling,*
5 *or identifiers on the dosage form or*
6 *product or package,*

7 *“(III) shall not take into account*
8 *prices that are merely nominal in*
9 *amount, and*

10 *“(IV) shall exclude rebates paid*
11 *under this section or any other rebates*
12 *paid to a State participating in the*
13 *MediGrant master rebate agreement.*

14 *“(2) ADDITIONAL REBATE FOR SINGLE SOURCE*
15 *AND INNOVATOR MULTIPLE SOURCE DRUGS.—*

16 *“(A) IN GENERAL.—The amount of the re-*
17 *bate specified in this subsection with respect to*
18 *a State participating in the MediGrant master*
19 *rebate agreement for a rebate period, with re-*
20 *spect to each dosage form and strength of a sin-*
21 *gle source drug or an innovator multiple source*
22 *drug, shall be increased by an amount equal to*
23 *the product of—*

24 *“(i) the total number of units of such*
25 *dosage form and strength dispensed after*

1 *December 31, 1990, for which payment was*
2 *made under the MediGrant plan for the re-*
3 *bate period; and*

4 “(ii) the amount (if any) by which—

5 “(I) the average manufacturer
6 price for the dosage form and strength
7 of the drug for the period, exceeds

8 “(II) the average manufacturer
9 price for such dosage form and strength
10 for the calendar quarter beginning
11 July 1, 1990 (without regard to wheth-
12 er or not the drug has been sold or
13 transferred to an entity, including a
14 division or subsidiary of the manufac-
15 turer, after the first day of such quar-
16 ter), increased by the percentage by
17 which the Consumer Price Index for
18 All Urban Consumers (United States
19 city average) for the month before the
20 month in which the rebate period be-
21 gins exceeds such index for September
22 1990.

23 “(B) TREATMENT OF SUBSEQUENTLY AP-
24 PROVED DRUGS.—*In the case of a covered out-*
25 *patient drug approved by the Food and Drug*

1 *Administration after October 1, 1990, clause*
2 *(ii)(II) of subparagraph (A) shall be applied by*
3 *substituting ‘the first full calendar quarter after*
4 *the day on which the drug was first marketed’*
5 *for ‘the calendar quarter beginning July 1, 1990’*
6 *and ‘the month prior to the first month of the*
7 *first full calendar quarter after the day on which*
8 *the drug was first marketed’ for ‘September*
9 *1990’.*

10 “(3) *REBATE FOR OTHER DRUGS.—*

11 “(A) *IN GENERAL.—The amount of the re-*
12 *bate paid to a State participating in the*
13 *MediGrant master rebate agreement for a rebate*
14 *period with respect to each dosage form and*
15 *strength of covered outpatient drugs (other than*
16 *single source drugs and innovator multiple*
17 *source drugs) shall be equal to the product of—*

18 “(i) *the applicable percentage (as de-*
19 *scribed in subparagraph (B)) of the average*
20 *manufacturer price for the dosage form and*
21 *strength for the rebate period, and*

22 “(ii) *the total number of units of such*
23 *dosage form and strength dispensed after*
24 *December 31, 1990, for which payment was*

1 *made under the MediGrant plan for the re-*
2 *bate period.*

3 “(B) *APPLICABLE PERCENTAGE DEFINED.*—
4 *For purposes of subparagraph (A)(i), the ‘appli-*
5 *cable percentage’ is 11 percent.*

6 “(4) *LIMITATION ON AMOUNT OF REBATE TO*
7 *AMOUNTS PAID FOR CERTAIN DRUGS.*—

8 “(A) *IN GENERAL.*—*Upon request of the*
9 *manufacturer of a covered outpatient drug, the*
10 *Secretary shall limit, in accordance with sub-*
11 *paragraph (B), the amount of the rebate under*
12 *this subsection with respect to a dosage form and*
13 *strength of such drug if the majority of the esti-*
14 *mated number of units of such dosage form and*
15 *strength that are subject to rebates under this*
16 *section were dispensed to inpatients of nursing*
17 *facilities.*

18 “(B) *AMOUNT OF REBATE.*—*In the case of*
19 *a covered outpatient drug subject to subpara-*
20 *graph (A), the amount of the rebate specified in*
21 *this subsection for a rebate period, with respect*
22 *to each dosage form and strength of such drug,*
23 *shall not exceed the amount paid under the*
24 *MediGrant plan with respect to such dosage form*
25 *and strength of the drug in the rebate period*

1 *(without consideration of any dispensing fees*
2 *paid).*

3 “(5) *SUPPLEMENTAL REBATES PROHIBITED.*—

4 *No rebates shall be required to be paid by manufac-*
5 *turers with respect to covered outpatient drugs fur-*
6 *nished to individuals in any State that provides for*
7 *the collection of such rebates in excess of the rebate*
8 *amount payable under this section.*

9 “(d) *LIMITATIONS ON COVERAGE OF DRUGS BY*
10 *STATES PARTICIPATING IN MASTER AGREEMENT.*—

11 “(1) *PERMISSIBLE RESTRICTIONS.*—*A State par-*
12 *ticipating in the MediGrant master rebate agreement*
13 *under this section may—*

14 “(A) *subject to prior authorization under its*
15 *MediGrant plan any covered outpatient drug so*
16 *long as any such prior authorization program*
17 *complies with the requirements of paragraph (5);*
18 *and*

19 “(B) *exclude or otherwise restrict coverage*
20 *under its plan of a covered outpatient drug if—*

21 “(i) *the drug is contained in the list*
22 *referred to in paragraph (2);*

23 “(ii) *the drug is subject to such restric-*
24 *tions pursuant to the MediGrant master re-*

1 *bate agreement or any agreement described*
2 *in subsection (a)(4); or*

3 *“(iii) the State has excluded coverage*
4 *of the drug from its formulary established*
5 *in accordance with paragraph (4).*

6 *“(2) LIST OF DRUGS SUBJECT TO RESTRIC-*
7 *TION.—The following drugs or classes of drugs, or*
8 *their medical uses, may be excluded from coverage or*
9 *otherwise restricted by a State participating in the*
10 *MediGrant master rebate agreement:*

11 *“(A) Agents when used for anorexia, weight*
12 *loss, or weight gain.*

13 *“(B) Agents when used to promote fertility.*

14 *“(C) Agents when used for cosmetic pur-*
15 *poses or hair growth.*

16 *“(D) Agents when used for the symptomatic*
17 *relief of cough and colds.*

18 *“(E) Agents when used to promote smoking*
19 *cessation.*

20 *“(F) Prescription vitamins and mineral*
21 *products, except prenatal vitamins and fluoride*
22 *preparations.*

23 *“(G) Nonprescription drugs.*

24 *“(H) Covered outpatient drugs which the*
25 *manufacturer seeks to require as a condition of*

1 *sale that associated tests or monitoring services*
2 *be purchased exclusively from the manufacturer*
3 *or its designee.*

4 “(I) *Barbiturates.*

5 “(J) *Benzodiazepines.*

6 “(3) *ADDITIONS TO DRUG LISTINGS.—The Sec-*
7 *retary shall, by regulation, periodically update the*
8 *list of drugs or classes of drugs described in para-*
9 *graph (2), or their medical uses, which the Secretary*
10 *has determined to be subject to clinical abuse or inap-*
11 *propriate use.*

12 “(4) *REQUIREMENTS FOR FORMULARIES.—A*
13 *State participating in the MediGrant master rebate*
14 *agreement may establish a formulary if the formulary*
15 *meets the following requirements:*

16 “(A) *The formulary is developed by a com-*
17 *mittee consisting of physicians, pharmacists, and*
18 *other appropriate individuals appointed by the*
19 *Governor of the State.*

20 “(B) *Except as provided in subparagraph*
21 *(C), the formulary includes the covered out-*
22 *patient drugs of any manufacturer which has en-*
23 *tered into and complies with the agreement*
24 *under subsection (a) (other than any drug ex-*

1 *cluded from coverage or otherwise restricted*
2 *under paragraph (2)).*

3 “(C) *A covered outpatient drug may be ex-*
4 *cluded with respect to the treatment of a specific*
5 *disease or condition for an identified population*
6 *(if any) only if, based on the drug’s labeling (or,*
7 *in the case of a drug the prescribed use of which*
8 *is not approved under the Federal Food, Drug,*
9 *and Cosmetic Act but is a medically accepted in-*
10 *dications, based on information from the appro-*
11 *priate compendia described in subsection (i)(5)),*
12 *the excluded drug does not have a significant,*
13 *clinically meaningful therapeutic advantage in*
14 *terms of safety, effectiveness, or clinical outcome*
15 *of such treatment for such population over other*
16 *drugs included in the formulary and there is a*
17 *written explanation (available to the public) of*
18 *the basis for the exclusion.*

19 “(D) *The State MediGrant plan permits*
20 *coverage of a drug excluded from the formulary*
21 *(other than any drug excluded from coverage or*
22 *otherwise restricted under paragraph (2)) pursu-*
23 *ant to a prior authorization program that is*
24 *consistent with paragraph (5).*

1 “(E) *The formulary meets such other re-*
2 *quirements as the Secretary may impose in*
3 *order to achieve program savings consistent with*
4 *protecting the health of program beneficiaries.*

5 *A prior authorization program established by a State*
6 *under paragraph (5) is not a formulary subject to the*
7 *requirements of this paragraph.*

8 “(5) *REQUIREMENTS OF PRIOR AUTHORIZATION*
9 *PROGRAMS.—The MediGrant plan of a State partici-*
10 *pating in the MediGrant master rebate agreement*
11 *may require, as a condition of coverage or payment*
12 *for a covered outpatient drug for which Federal fi-*
13 *nancial participation is available in accordance with*
14 *this section, the approval of the drug before its dis-*
15 *persing for any medically accepted indication (as de-*
16 *fined in subsection (i)(5)) only if the system provid-*
17 *ing for such approval—*

18 “(A) *provides response by telephone or other*
19 *telecommunication device within 24 hours of a*
20 *request for prior authorization, and*

21 “(B) *except with respect to the drugs on the*
22 *list referred to in paragraph (2), provides for the*
23 *dispensing of at least a 72-hour supply of a cov-*
24 *ered outpatient prescription drug in an emer-*
25 *gency situation (as defined by the Secretary).*

1 “(6) *OTHER PERMISSIBLE RESTRICTIONS.*—A
2 *State participating in the MediGrant master rebate*
3 *agreement may impose limitations, with respect to all*
4 *such drugs in a therapeutic class, on the minimum or*
5 *maximum quantities per prescription or on the num-*
6 *ber of refills, if such limitations are necessary to dis-*
7 *courage waste, and may address instances of fraud or*
8 *abuse by individuals in any manner authorized*
9 *under this Act.*

10 “(e) *DRUG USE REVIEW.*—

11 “(1) *IN GENERAL.*—A *State participating in the*
12 *MediGrant master rebate agreement may provide for*
13 *a drug use review program to educate physicians and*
14 *pharmacists to identify and reduce the frequency of*
15 *patterns of fraud, abuse, gross overuse, or inappropri-*
16 *ate or medically unnecessary care, among physicians,*
17 *pharmacists, and patients, or associated with specific*
18 *drugs or groups of drugs, as well as potential and ac-*
19 *tual severe adverse reactions to drugs.*

20 “(2) *APPLICATION OF STATE STANDARDS.*—*Ex-*
21 *cept as provided in subparagraph (B), a State with*
22 *a drug use review program under this subsection shall*
23 *establish and operate the program under such stand-*
24 *ards as it may establish.*

1 “(f) *ELECTRONIC CLAIMS MANAGEMENT.*—*In accord-*
2 *ance with chapter 35 of title 44, United States Code (relat-*
3 *ing to coordination of Federal information policy), the Sec-*
4 *retary shall encourage each State to establish, as its prin-*
5 *cipal means of processing claims for covered outpatient*
6 *drugs under its MediGrant plan, a point-of-sale electronic*
7 *claims management system, for the purpose of performing*
8 *on-line, real time eligibility verifications, claims data cap-*
9 *ture, adjudication of claims, and assisting pharmacists*
10 *(and other authorized persons) in applying for and receiv-*
11 *ing payment.*

12 “(g) *ANNUAL REPORT.*—

13 “(1) *IN GENERAL.*—*Not later than May 1 of each*
14 *year, the Secretary shall transmit to the Committee*
15 *on Finance of the Senate, and the Committee on*
16 *Commerce of the House of Representatives, a report*
17 *on the operation of this section in the preceding fiscal*
18 *year.*

19 “(2) *DETAILS.*—*Each report shall include infor-*
20 *mation on—*

21 “(A) *ingredient costs paid under this title*
22 *for single source drugs, multiple source drugs,*
23 *and nonprescription covered outpatient drugs,*

24 “(B) *the total value of rebates received and*
25 *number of manufacturers providing such rebates,*

1 “(C) the effect of inflation on the value of
2 rebates required under this section,

3 “(D) trends in prices paid under this title
4 for covered outpatient drugs, and

5 “(E) Federal and State administrative costs
6 associated with compliance with the provisions
7 of this title.

8 “(h) EXEMPTION FOR CAPITATED HEALTH CARE OR-
9 GANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), the requirements of the MediGrant master
12 rebate agreement under this section shall not apply
13 with respect to covered outpatient drugs dispensed by
14 or through—

15 “(A) a capitated health care organization
16 (as defined in section 2114(c)(1)), or

17 “(B) a hospital or nursing facility that dis-
18 penses covered outpatient drugs using a drug for-
19 mulary system and bills the State no more than
20 the hospital’s or facility’s purchasing costs for
21 covered outpatient drugs.

22 “(2) CONSTRUCTION IN DETERMINING BEST
23 PRICE.—Nothing in paragraph (1) shall be construed
24 as excluding amounts paid by the entities described
25 in such paragraph for covered outpatient drugs from

1 *the determination of the best price (as defined in sub-*
2 *section (c)(1)(C)) for such drugs.*

3 *“(i) DEFINITIONS.—In the section—*

4 *“(1) AVERAGE MANUFACTURER PRICE.—The*
5 *term ‘average manufacturer price’ means, with re-*
6 *spect to a covered outpatient drug of a manufacturer*
7 *for a rebate period, the average price paid to the*
8 *manufacturer for the drug in the United States by*
9 *wholesalers for drugs distributed to the retail phar-*
10 *macy class of trade, after deducting customary*
11 *prompt pay discounts.*

12 *“(2) COVERED OUTPATIENT DRUG.—Subject to*
13 *the exceptions in paragraph (3), the term ‘covered*
14 *outpatient drug’ means—*

15 *“(A) of those drugs which are treated as*
16 *prescribed drugs for purposes of section*
17 *2171(a)(8), a drug which may be dispensed only*
18 *upon prescription (except as provided in sub-*
19 *paragraph (D)), and—*

20 *“(i) which is approved as a prescrip-*
21 *tion drug under section 505 or 507 of the*
22 *Federal Food, Drug, and Cosmetic Act;*

23 *“(ii)(I) which was commercially used*
24 *or sold in the United States before the date*
25 *of the enactment of the Drug Amendments*

1 of 1962 or which is identical, similar, or re-
2 lated (within the meaning of section
3 310.6(b)(1) of title 21 of the Code of Federal
4 Regulations) to such a drug, and (II) which
5 has not been the subject of a final deter-
6 mination by the Secretary that it is a ‘new
7 drug’ (within the meaning of section 201(p)
8 of the Federal Food, Drug, and Cosmetic
9 Act) or an action brought by the Secretary
10 under section 301, 302(a), or 304(a) of such
11 Act to enforce section 502(f) or 505(a) of
12 such Act; or

13 “(iii)(I) which is described in section
14 107(c)(3) of the Drug Amendments of 1962
15 and for which the Secretary has determined
16 there is a compelling justification for its
17 medical need, or is identical, similar, or re-
18 lated (within the meaning of section
19 310.6(b)(1) of title 21 of the Code of Federal
20 Regulations) to such a drug, and (II) for
21 which the Secretary has not issued a notice
22 of an opportunity for a hearing under sec-
23 tion 505(e) of the Federal Food, Drug, and
24 Cosmetic Act on a proposed order of the
25 Secretary to withdraw approval of an ap-

1 *plication for such drug under such section*
2 *because the Secretary has determined that*
3 *the drug is less than effective for some or all*
4 *conditions of use prescribed, recommended,*
5 *or suggested in its labeling;*

6 *“(B) a biological product, other than a vac-*
7 *cine which—*

8 *“(i) may only be dispensed upon pre-*
9 *scription,*

10 *“(ii) is licensed under section 351 of*
11 *the Public Health Service Act, and*

12 *“(iii) is produced at an establishment*
13 *licensed under such section to produce such*
14 *product;*

15 *“(C) insulin certified under section 506 of*
16 *the Federal Food, Drug, and Cosmetic Act; and*

17 *“(D) a drug which may be sold without a*
18 *prescription (commonly referred to as an ‘over-*
19 *the-counter drug’), if the drug is prescribed by a*
20 *physician (or other person authorized to pre-*
21 *scribe under State law).*

22 *“(3) LIMITING DEFINITION.—The term ‘covered*
23 *outpatient drug’ does not include any drug, biological*
24 *product, or insulin provided as part of, or as incident*
25 *to and in the same setting as, any of the following*

1 *(and for which payment may be made under a*
2 *MediGrant plan as part of payment for the following*
3 *and not as direct reimbursement for the drug):*

4 “(A) *Inpatient hospital services.*

5 “(B) *Hospice services.*

6 “(C) *Dental services, except that drugs for*
7 *which the MediGrant plan authorizes direct re-*
8 *imbursement to the dispensing dentist are cov-*
9 *ered outpatient drugs.*

10 “(D) *Physicians’ services.*

11 “(E) *Outpatient hospital services.*

12 “(F) *Nursing facility services and services*
13 *provided by an intermediate care facility for the*
14 *mentally retarded.*

15 “(G) *Other laboratory and x-ray services.*

16 “(H) *Renal dialysis services.*

17 *Such term also does not include any such drug or*
18 *product for which a National Drug Code number is*
19 *not required by the Food and Drug Administration or*
20 *a drug or biological used for a medical indication*
21 *which is not a medically accepted indication. Any*
22 *drug, biological product, or insulin excluded from the*
23 *definition of such term as a result of this paragraph*
24 *shall be treated as a covered outpatient drug for pur-*
25 *poses of determining the best price (as defined in sub-*

1 *section (c)(1)(C)) for such drug, biological product, or*
2 *insulin.*

3 “(4) *MANUFACTURER.*—*The term ‘manufacturer’*
4 *means, with respect to a covered outpatient drug, the*
5 *entity holding legal title to or possession of the Na-*
6 *tional Drug Code number for such drug.*

7 “(5) *MEDICALLY ACCEPTED INDICATION.*—*The*
8 *term ‘medically accepted indication’ means any use*
9 *for a covered outpatient drug which is approved*
10 *under the Federal Food, Drug, and Cosmetic Act, or*
11 *the use of which is supported by one or more citations*
12 *included or approved for inclusion in any of the fol-*
13 *lowing compendia:*

14 “(A) *American Hospital Formulary Service*
15 *Drug Information.*

16 “(B) *United States Pharmacopeia-Drug In-*
17 *formation.*

18 “(C) *American Medical Association Drug*
19 *Evaluations.*

20 “(D) *The DRUGDEX Information System.*

21 “(E) *The peer-reviewed medical literature.*

22 “(6) *MULTIPLE SOURCE DRUG; INNOVATOR MUL-*
23 *TIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE*
24 *SOURCE DRUG; SINGLE SOURCE DRUG.—*

25 “(A) *DEFINED.—*

1 “(i) *MULTIPLE SOURCE DRUG.*—The
2 term ‘multiple source drug’ means, with re-
3 spect to a rebate period, a covered out-
4 patient drug (not including any drug de-
5 scribed in paragraph (2)(D)) for which
6 there are 2 or more drug products which—

7 “(I) are rated as therapeutically
8 equivalent (under the Food and Drug
9 Administration’s most recent publica-
10 tion of ‘Approved Drug Products with
11 Therapeutic Equivalence Evaluations’),

12 “(II) except as provided in sub-
13 paragraph (B), are pharmaceutically
14 equivalent and bioequivalent, as de-
15 fined in subparagraph (C) and as de-
16 termined by the Food and Drug Ad-
17 ministration, and

18 “(III) are sold or marketed in the
19 State during the period.

20 “(ii) *INNOVATOR MULTIPLE SOURCE*
21 *DRUG.*—The term ‘innovator multiple
22 source drug’ means a multiple source drug
23 that was originally marketed under an
24 original new drug application or product

1 *licensing application approved by the Food*
2 *and Drug Administration.*

3 “(iii) NONINNOVATOR MULTIPLE
4 SOURCE DRUG.—*The term ‘noninnovator*
5 *multiple source drug’ means a multiple*
6 *source drug that is not an innovator mul-*
7 *tipl source drug.*

8 “(iv) SINGLE SOURCE DRUG.—*The*
9 *term ‘single source drug’ means a covered*
10 *outpatient drug which is produced or dis-*
11 *tributed under an original new drug appli-*
12 *cation approved by the Food and Drug Ad-*
13 *ministration, including a drug product*
14 *marketed by any cross-licensed producers or*
15 *distributors operating under the new drug*
16 *application or product licensing applica-*
17 *tion.*

18 “(B) EXCEPTION.—*Subparagraph (A)(i)(II)*
19 *shall not apply if the Food and Drug Adminis-*
20 *tration changes by regulation the requirement*
21 *that, for purposes of the publication described in*
22 *subparagraph (A)(i)(I), in order for drug prod-*
23 *ucts to be rated as therapeutically equivalent,*
24 *they must be pharmaceutically equivalent and*
25 *bioequivalent, as defined in subparagraph (C).*

1 “(C) *DEFINITIONS.*—*For purposes of this*
2 *paragraph—*

3 “(i) *drug products are pharmaceuti-*
4 *cally equivalent if the products contain*
5 *identical amounts of the same active drug*
6 *ingredient in the same dosage form and*
7 *meet compendial or other applicable stand-*
8 *ards of strength, quality, purity, and iden-*
9 *tity,*

10 “(ii) *drugs are bioequivalent if they do*
11 *not present a known or potential*
12 *bioequivalence problem, or, if they do*
13 *present such a problem, they are shown to*
14 *meet an appropriate standard of*
15 *bioequivalence, and*

16 “(iii) *a drug product is considered to*
17 *be sold or marketed in a State if it appears*
18 *in a published national listing of average*
19 *wholesale prices selected by the Secretary, if*
20 *the listed product is generally available to*
21 *the public through retail pharmacies in that*
22 *State.*

23 “(7) *REBATE PERIOD.*—*The term ‘rebate period’*
24 *means, with respect to an agreement under subsection*
25 *(a), a calendar quarter or other period specified by*

1 year 1996 under section 2121(a)(4) of the Social
2 Security Act (as added by section 7001).

3 (B) *NONE AFTER MEDIGRANT.*—The Sec-
4 retary is not authorized to enter into any obliga-
5 tion with any State under title XIX of such Act
6 for expenses incurred on or after the earlier of—

7 (i) October 1, 1996, or

8 (ii) the first day of the first quarter on
9 which the State MediGrant plan under title
10 XXI of such Act (as added by section 7001)
11 is first effective.

12 (C) *AGREEMENT.*—A State's submission of
13 claims for payment under section 1903 of such
14 Act after the date of the enactment of this Act
15 with respect to which the limitation described in
16 subparagraph (A) applies is deemed to constitute
17 the State's acceptance of the obligation limita-
18 tion under such subparagraph (including the for-
19 mula for computing the amount of such obliga-
20 tion limitation).

21 (D) *EFFECT ON MEDICAL ASSISTANCE.*—Ef-
22 fective on the date of the enactment of this sec-
23 tion—

24 (i) except as provided in this para-
25 graph, the Federal Government has no obli-

1 *gation to provide payment with respect to*
2 *items and services provided under title XIX*
3 *of the Social Security Act, and*

4 *(ii) such title and title XXI of such Act*
5 *shall not be construed as providing for an*
6 *entitlement, under Federal law in relation*
7 *to the Federal Government, in an individ-*
8 *ual or person (including any provider) at*
9 *the time of provision or receipt of services.*

10 (3) *REQUIREMENT FOR TIMELY SUBMITTAL OF*
11 *CLAIMS.—No payment shall be made to a State under*
12 *title XIX of such Act with respect to an obligation in-*
13 *curring before the date of the enactment of this Act,*
14 *unless the State has submitted to the Secretary, by*
15 *not later than June 30, 1996, a claim for Federal fi-*
16 *nancial participation for expenses paid by the State*
17 *with respect to such obligations. Nothing in para-*
18 *graph (2) shall be construed as affecting the obliga-*
19 *tion of the Federal Government to pay claims de-*
20 *scribed in the previous sentence.*

21 (b) *MEDICAID-TO-MEDIGRANT TRANSITION PROVI-*
22 *SIONS.—*

23 (1) *Notwithstanding any provision of law, in the*
24 *case where payment has been made under section*
25 *1903(a) of the Social Security Act to a State before*

1 *October 1, 1995, and for which a disallowance has not*
2 *been taken as of such date (or, if so taken, has not*
3 *been completed, including judicial review, by such*
4 *date), the Secretary of Health and Human Services*
5 *shall discontinue the disallowance proceeding and, if*
6 *such disallowance has been taken as of the date of the*
7 *enactment of this Act, any payment reductions ef-*
8 *fectuated shall be rescinded and the payments returned*
9 *to the State.*

10 *(2) The repeal under subsection (a)(1) of section*
11 *1928 of the Social Security Act shall not affect the*
12 *distribution of vaccines purchased and delivered to*
13 *the States before the date of the enactment of this Act.*
14 *No vaccine may be purchased after such date by the*
15 *Federal Government or any State under any contract*
16 *under section 1928(d) of the Social Security Act.*

17 *(3) No judicial or administrative decision ren-*
18 *dered regarding requirements imposed under title*
19 *XIX of the Social Security Act with respect to a State*
20 *shall have any application to the MediGrant plan of*
21 *the State title under XXI of such Act. A State may,*
22 *pursuant to the previous sentence, seek the abrogation*
23 *or modification of any such decision after the date of*
24 *termination of the State plan under title XIX of such*
25 *Act.*

1 (4) *No cause of action under title XIX of the So-*
2 *cial Security Act which seeks to require a State to es-*
3 *tablish or maintain minimum payment rates under*
4 *such title or claim which seeks reimbursement for any*
5 *period before the date of the enactment of this Act*
6 *based on the alleged failure of the State to comply*
7 *with such title and which has not become final as of*
8 *such date shall be brought or continued.*

9 (5) *Section 6408(a)(3) of the Omnibus Budget*
10 *Reconciliation Act of 1989 (as amended by section*
11 *13642 of the Omnibus Budget Reconciliation Act of*
12 *1993) and section 2 of Public Law 102-276 (as*
13 *amended by section 13644 of the Omnibus Budget*
14 *Reconciliation Act of 1993) are each amended by*
15 *striking “December 31, 1995” and inserting “October*
16 *1, 1996”.*

17 (c) *ANTI-FRAUD PROVISIONS.—Section 1128(h)(1) of*
18 *the Social Security Act (42 U.S.C. 1320a-7(h)(1)) is*
19 *amended by inserting “or a MediGrant plan under title*
20 *XXI” after “title XIX”.*

21 (d) *TECHNICAL AND CONFORMING AMENDMENTS.—*

22 (1) *SECRETARIAL SUBMISSION OF LEGISLATIVE*
23 *PROPOSAL.—Not later than 90 days after the date of*
24 *the enactment of this Act, the Secretary of Health and*
25 *Human Services, in consultation, as appropriate,*

1 *with heads of other Federal agencies and the States*
2 *(as defined in section 1101(a)(8) of the Social Secu-*
3 *rity Act for purposes of title XIX of such Act), shall*
4 *submit to the appropriate committees of Congress a*
5 *legislative proposal providing for such technical and*
6 *conforming amendments in the law as are required by*
7 *the provisions of, and amendments made by, this title.*

8 (2) *TRANSITIONAL RULE.—Any reference in any*
9 *provision of law to title XIX of the Social Security*
10 *Act or any provision thereof shall be deemed to be a*
11 *reference to such title or provision as in effect on the*
12 *day before the date of the enactment of this Act.*

13 **SEC. 7003. MEDICARE/MEDIGRANT INTEGRATION DEM-**
14 **ONSTRATION PROJECT.**

15 (a) *DESCRIPTION OF PROJECTS.—*

16 (1) *IN GENERAL.—The Secretary of Health and*
17 *Human Services (in this section referred to as the*
18 *“Secretary”) shall conduct demonstration projects*
19 *under this section to demonstrate the manner in*
20 *which States may use funds from the medicare pro-*
21 *gram under title XVIII of the Social Security Act*
22 *and the MediGrant program under title XXI of such*
23 *Act (in this section referred to as the “medicare and*
24 *MediGrant programs”) for the purpose of providing a*
25 *more cost-effective full continuum of care for deliver-*

1 *ing services to meet the needs of chronically-ill elderly*
2 *and disabled beneficiaries who are eligible for items*
3 *and services under such programs, through integrated*
4 *systems of care, with an emphasis on case manage-*
5 *ment, prevention, and interventions designed to avoid*
6 *institutionalization whenever possible. The Secretary*
7 *shall use funds from the amounts appropriated for the*
8 *medicare and MediGrant programs to make the pay-*
9 *ments required under subsection (d)(1).*

10 (2) *OPTION TO PARTICIPATE.*—*A State may not*
11 *require an individual eligible to receive items and*
12 *services under the medicare and MediGrant programs*
13 *to participate in a demonstration project under this*
14 *section.*

15 (b) *ESTABLISHMENT.*—*The Secretary shall make pay-*
16 *ments in accordance with subsection (d) for the conduct of*
17 *demonstration projects that provide for integrated systems*
18 *of care in accordance with subsection (a). Not more than*
19 *10 demonstration projects shall be conducted under this sec-*
20 *tion.*

21 (c) *APPLICATIONS.*—*Each State, or a coalition of*
22 *States, desiring to conduct a demonstration project under*
23 *this section shall prepare and submit to the Secretary an*
24 *application at such time, in such manner, and containing*
25 *such information as the Secretary may require, including*

1 *an explanation of a plan for evaluating the project. The*
2 *Secretary shall approve or deny an application not later*
3 *than 90 days after the receipt of such application.*

4 *(d) PAYMENTS.—*

5 *(1) IN GENERAL.—For each calendar quarter oc-*
6 *curing during a demonstration project conducted*
7 *under this section, the Secretary shall pay to each en-*
8 *tity designated under paragraph (3) an amount equal*
9 *to the Federal capitated payment rate determined*
10 *under paragraph (2).*

11 *(2) FEDERAL CAPITATED PAYMENT RATE.—The*
12 *Secretary shall determine the Federal capitated pay-*
13 *ment rate for purposes of this section based on the an-*
14 *ticipated Federal quarterly cost of providing care to*
15 *chronically-ill elderly and disabled beneficiaries who*
16 *are eligible for items and services under the medicare*
17 *and MediGrant programs and who have elected to*
18 *participate in a demonstration project under this sec-*
19 *tion.*

20 *(3) DESIGNATION OF ENTITY.—*

21 *(A) IN GENERAL.—Each State, or coalition*
22 *of States, shall designate entities to directly re-*
23 *ceive the payments described in paragraph (1).*

24 *(B) REQUIREMENT.—A State, or a coalition*
25 *of States, may not designate an entity under*

1 subparagraph (A) unless such entity meets the
2 quality, solvency, and coverage standards appli-
3 cable to providers of items and services under the
4 medicare and MediGrant programs.

5 (4) *STATE PAYMENTS.*—Each State conducting,
6 or in the case of a coalition of States, participating
7 in a demonstration project under this section shall
8 pay to the entities designated under paragraph (3) an
9 amount equal to the product of (A) 100 percent minus
10 the applicable Federal medical assistance percentage
11 (as defined in section 2122(e) of the Social Security
12 Act) for the State, and (B) the expenditures under the
13 project attributable to the MediGrant program for
14 items and services provided to chronically-ill elderly
15 and disabled beneficiaries who have elected to partici-
16 pate in the demonstration.

17 (5) *BUDGET NEUTRALITY.*—The aggregate
18 amount of Federal payments to entities designated by
19 a State, or coalition of States, under paragraph (3)
20 for a fiscal year shall not exceed the aggregate amount
21 of such payments that would otherwise have been
22 made under the medicare and MediGrant programs
23 for such fiscal year for items and services provided to
24 beneficiaries under such programs but for the election

1 *of such beneficiaries to participate in a demonstra-*
2 *tion project under this section.*

3 *(e) DURATION.—*

4 *(1) IN GENERAL.—The demonstration projects*
5 *conducted under this section shall be conducted for a*
6 *5-year period, subject to annual review and approval*
7 *by the Secretary.*

8 *(2) TERMINATION.—The Secretary may, with 90*
9 *days' notice, terminate any demonstration project*
10 *conducted under this section that is not in substantial*
11 *compliance with the terms of the application ap-*
12 *proved by the Secretary under this section.*

13 *(f) OVERSIGHT.—The Secretary shall establish quality*
14 *standards for evaluating and monitoring the demonstration*
15 *projects conducted under this section. Such quality stand-*
16 *ards shall include reporting requirements which contain the*
17 *following:*

18 *(1) A description of the demonstration project.*

19 *(2) An analysis of beneficiary satisfaction under*
20 *such project.*

21 *(3) An analysis of the quality of the services de-*
22 *livered under the project.*

23 *(4) A description of the savings to the*
24 *MediGrant and medicare programs as a result of the*
25 *demonstration project.*

TITLE VIII—MEDICARE**SEC. 8000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.**

(a) *SHORT TITLE.*—This title may be cited as the “Medicare Preservation Act of 1995”.

(b) *AMENDMENTS TO SOCIAL SECURITY ACT.*—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment 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.

(d) *TABLE OF CONTENTS OF TITLE.*—The table of contents of this title is as follows:

Sec. 8000. Short title of title; amendments and references to OBRA; table of contents of title.

*Subtitle A—MedicarePlus Program**“PART C—MEDICAREPLUS PROGRAM**CHAPTER 1—MEDICAREPLUS PROGRAM*

Sec. 8001. Establishment of MedicarePlus program.

“PART C—MEDICAREPLUS PROGRAM

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

“Sec. 1852. Benefits and beneficiary protections.

“Sec. 1853. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.

“Sec. 1854. Payments to MedicarePlus organizations.

“Sec. 1855. Premiums and rebates.

“Sec. 1856. Establishment of standards; certification of organizations and plans.

“Sec. 1857. Contracts with MedicarePlus organizations.

“Sec. 1858. Standards for MedicarePlus and medicare information transactions and data elements.

“Sec. 1859. Definitions; miscellaneous provisions.

Sec. 8002. Duplication and coordination of medicare-related plans.

Sec. 8003. Transitional rules for current medicare HMO program.

CHAPTER 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 8011. MedicarePlus MSA.

Sec. 8012. Certain rebates excluded from gross income.

CHAPTER 3—MEDICARE PAYMENT REVIEW COMMISSION

Sec. 8021. Medicare Payment Review Commission.

CHAPTER 4—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 8031. Treatment of hospitals which participate in provider-sponsored organizations.

*Subtitle B—Health Care Fraud and Abuse Prevention**CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM*

Sec. 8101. Fraud and abuse control program.

Sec. 8102. Medicare integrity program.

Sec. 8103. Beneficiary incentive programs.

Sec. 8104. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.

Sec. 8105. Guidance regarding application of health care fraud and abuse sanctions.

CHAPTER 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 8111. Mandatory exclusion from participation in medicare and State health care programs.

- Sec. 8112. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.*
- Sec. 8113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.*
- Sec. 8114. Sanctions against practitioners and persons for failure to comply with statutory obligations.*
- Sec. 8115. Intermediate sanctions for medicare health maintenance organizations.*
- Sec. 8116. Additional exception to anti-kickback penalties for discounting and managed care arrangements.*
- Sec. 8117. Penalties for the fraudulent conversion of assets in order to obtain State health care program benefits.*
- Sec. 8118. Effective date.*

CHAPTER 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

- Sec. 8121. Establishment of the health care fraud and abuse data collection program.*

CHAPTER 4—CIVIL MONETARY PENALTIES

- Sec. 8131. Social Security Act civil monetary penalties.*
- Sec. 8132. Clarification of level of intent required for imposition of sanctions.*
- Sec. 8133. Penalty for false certification for home health services.*

CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

- Sec. 8141. Health care fraud.*
- Sec. 8142. Forfeitures for Federal health care offenses.*
- Sec. 8143. Injunctive relief relating to Federal health care offenses.*
- Sec. 8144. False Statements.*
- Sec. 8145. Obstruction of criminal investigations of Federal health care offenses.*
- Sec. 8146. Theft or embezzlement.*
- Sec. 8147. Laundering of monetary instruments.*
- Sec. 8148. Authorized investigative demand procedures.*

CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

- Sec. 8151. State health care fraud control units.*

Subtitle C—Regulatory Relief

- Sec. 8201. Repeal of physician ownership referral prohibitions based on compensation arrangements.*
- Sec. 8202. Revision of designated health services subject to ownership referral prohibition.*
- Sec. 8203. Delay in implementation of 1993 ownership referral changes until promulgation of regulations.*
- Sec. 8204. Exceptions to ownership referral prohibitions.*
- Sec. 8205. Effective date.*

Subtitle D—Modification in Payment Policies Regarding Graduate Medical Education

- Sec. 8301. Indirect medical education payments.*
- Sec. 8302. Direct graduate medical education.*

*Subtitle E—Provisions Relating to Part A**CHAPTER 1—GENERAL PROVISIONS RELATING TO PART A*

- Sec. 8401. PPS hospital payment update.*
- Sec. 8402. PPS-exempt hospital payments.*
- Sec. 8403. Reductions in disproportionate share payment adjustments.*
- Sec. 8404. Capital payments for PPS hospitals.*
- Sec. 8405. Reduction in payments to hospitals for enrollees' bad debts.*
- Sec. 8406. Increase in update for certain hospitals with a high proportion of medicare patients.*

*CHAPTER 2—PAYMENTS TO SKILLED NURSING FACILITIES**SUBCHAPTER A—PROSPECTIVE PAYMENT SYSTEM*

- Sec. 8410. Prospective payment system for skilled nursing facilities.*

SUBCHAPTER B—INTERIM PAYMENT SYSTEM

- Sec. 8411. Payments for routine service costs.*
- Sec. 8412. Cost-effective management of covered non-routine services.*
- Sec. 8413. Payments for routine service costs.*
- Sec. 8414. Reductions in payment for capital-related costs.*
- Sec. 8415. Treatment of items and services paid for under part B.*
- Sec. 8416. Medical review process.*
- Sec. 8417. Report by medicare payment review commission.*
- Sec. 8418. Effective date.*

CHAPTER 3—OTHER PROVISIONS RELATING TO PART A

- Sec. 8421. Payments for hospice services.*
- Sec. 8422. Permanent extension of hemophilia pass-through.*

*Subtitle F—Provisions Relating to Part B**CHAPTER 1—PAYMENT REFORMS*

- Sec. 8501. Payments for physicians' services.*
- Sec. 8502. Elimination of formula-driven overpayments for certain outpatient hospital services.*
- Sec. 8503. Extension of reductions in payments for costs of hospital outpatient services.*
- Sec. 8504. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.*
- Sec. 8505. Payments for durable medical equipment.*
- Sec. 8506. Updates for ambulatory surgical services.*
- Sec. 8507. Payments for ambulance services.*
- Sec. 8508. Ensuring payment for physician and nurse for jointly furnished anesthesia services.*

CHAPTER 2—PART B PREMIUM

- Sec. 8511. Promoting solvency of part a trust fund through part b premium.*
- Sec. 8512. Income-related reduction in medicare subsidy.*

*Subtitle G—Provisions Relating to Parts A and B**CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES*

- Sec. 8601. Payment for home health services.*
Sec. 8602. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 8603. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.
Sec. 8604. Extension of period of home health agency certification.

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

- Sec. 8611. Extension and expansion of existing requirements.*
Sec. 8612. Improvements in recovery of payments.

CHAPTER 3—OTHER ITEMS AND SERVICES UNDER PARTS A AND B

- Sec. 8621. Medicare coverage of certain anti-cancer drug treatments.*
Sec. 8622. Administrative provisions.

CHAPTER 4—FAILSAFE

- Sec. 8631. Failsafe budget mechanism.*

Subtitle H—Rural Areas

- Sec. 8701. Medicare-dependent, small, rural hospital payment extension.*
Sec. 8702. Medicare rural hospital flexibility program.
Sec. 8703. Establishment of rural emergency access care hospitals.
Sec. 8704. Classification of rural referral centers.
Sec. 8705. Floor on area wage index.
Sec. 8706. Additional payments for physicians' services furnished in shortage areas.
Sec. 8707. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.
Sec. 8708. Expanding access to nurse aide training in underserved areas.

1 *Subtitle A—MedicarePlus Program***2 *CHAPTER 1—MEDICAREPLUS PROGRAM*****3 *SEC. 8001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.***

- 4 (a) *IN GENERAL.*—Title XVIII is amended by redesignig-**
5 *nating part C as part D and by inserting after part B*
6 *the following new part:*

1 “PART C—MEDICAREPLUS PROGRAM

2 “ELIGIBILITY, ELECTION, AND ENROLLMENT

3 “SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS
4 THROUGH MEDICAREPLUS PLANS.—

5 “(1) IN GENERAL.—Subject to the provisions of
6 this section, every MedicarePlus eligible individual
7 (as defined in paragraph (3)) is entitled to elect to re-
8 ceive benefits under this title—

9 “(A) through the Medicare fee-for-service
10 program under parts A and B, or

11 “(B) through enrollment in a MedicarePlus
12 plan under this part.

13 “(2) TYPES OF MEDICAREPLUS PLANS THAT MAY
14 BE AVAILABLE.—A MedicarePlus plan may be any of
15 the following types of plans of health insurance:

16 “(A) COORDINATED CARE PLANS.—Private
17 coordinated care plans which provide health care
18 services, including health maintenance organiza-
19 tion plans and preferred provider organization
20 plans.

21 “(B) COMBINATION OF HIGH DEDUCTIBLE
22 PLAN AND CONTRIBUTIONS TO HIGH DEDUCTIBLE
23 MEDICARE MSA.—A high deductible plan, as de-
24 fined in section 1859(b)(2), and a contribution

1 into a High Deductible MedicarePlus medical
2 savings account (MSA).

3 “(C) *PLANS OFFERED BY PROVIDER-SPON-*
4 *SORED ORGANIZATION.*—A MedicarePlus plan of-
5 ferred by a provider-sponsored organization, as
6 defined in section 1853(i).

7 “(D) *UNION, TAFT-HARTLEY, AND ASSOCIA-*
8 *TION PLANS.*—A MedicarePlus organization plan
9 offered by a MedicarePlus organization that is a
10 union sponsor, Taft-Hartley sponsor, or qualified
11 association sponsor, as defined in section
12 1859(a).

13 “(E) *FEE-FOR-SERVICE PLANS.*—Plans that
14 reimburse hospitals, physicians, and other pro-
15 viders on the basis of a privately determined fee
16 schedule or other basis.

17 “(F) *OTHER HEALTH CARE PLANS.*—Any
18 other private plan for the delivery of health care
19 items and services that is not described in a pre-
20 vious subparagraph.

21 “(3) *MEDICAREPLUS ELIGIBLE INDIVIDUAL.*—

22 “(A) *IN GENERAL.*—In this title, subject to
23 subparagraph (B), the term ‘MedicarePlus eligi-
24 ble individual’ means an individual who is enti-

1 *tled to benefits under part A and enrolled under*
2 *part B.*

3 *“(B) SPECIAL RULE FOR END-STAGE RENAL*
4 *DISEASE.—Such term shall not include an indi-*
5 *vidual medically determined to have end-stage*
6 *renal disease, except that an individual who de-*
7 *velops end-stage renal disease while enrolled in a*
8 *MedicarePlus plan may continue to be enrolled*
9 *in that plan.*

10 *“(b) SPECIAL RULES.—*

11 *“(1) RESIDENCE REQUIREMENT.—*

12 *“(A) IN GENERAL.—Except as the Secretary*
13 *may otherwise provide, an individual is eligible*
14 *to elect a MedicarePlus plan offered by a*
15 *MedicarePlus organization only if the organiza-*
16 *tion serves the geographic area in which the in-*
17 *dividual resides under the plan.*

18 *“(B) CONTINUATION OF ENROLLMENT PER-*
19 *MITTED.—Pursuant to rules specified by the Sec-*
20 *retary, the Secretary shall provide that an indi-*
21 *vidual may continue enrollment in a plan, not-*
22 *withstanding that the individual no longer re-*
23 *sides in the service area of the plan, so long as*
24 *the plan provides benefits for providers located*
25 *in the area in which the individual resides.*

1 “(2) *AFFILIATION REQUIREMENTS FOR CERTAIN*
2 *PLANS.*—

3 “(A) *IN GENERAL.*—*Subject to subpara-*
4 *graph (B), an individual is eligible to elect a*
5 *MedicarePlus plan offered by—*

6 “(i) *a union sponsor only if (I) the in-*
7 *dividual is a member of the sponsor and af-*
8 *filiated with the sponsor through an em-*
9 *ployment relationship with any employer or*
10 *is the spouse of such a member, and (II) the*
11 *individual elected under this section a*
12 *MedicarePlus plan offered by the sponsor*
13 *during the first enrollment period in which*
14 *the individual was eligible to make such*
15 *election with respect to such sponsor;*

16 “(ii) *a Taft-Hartley sponsor only if (I)*
17 *the individual is entitled to obtain benefits*
18 *through such plans under the terms of an*
19 *applicable collective bargaining agreement,*
20 *and (II) the individual elected under this*
21 *section a MedicarePlus plan offered by the*
22 *sponsor during the first enrollment period*
23 *in which the individual was eligible to*
24 *make such election with respect to such*
25 *sponsor; and*

1 “(iii) a qualified association sponsor
2 only if the individual is a member of the as-
3 sociation (or is a spouse of such a member).

4 “(B) *LIMITATION ON ENROLLMENT.*—Sub-
5 ject to subparagraph (C)—

6 “(i) a union sponsor may not enroll an
7 individual under this part unless the indi-
8 vidual is described in subparagraph
9 (A)(i)(I),

10 “(ii) a Taft-Hartley sponsor may not
11 enroll an individual under this part unless
12 the individual is described in subparagraph
13 (A)(ii)(I), and

14 “(iii) a qualified association sponsor
15 may not enroll an individual under this
16 part unless the individual is described in
17 subparagraph (A)(iii).

18 “(C) *LIMITATION ON TERMINATION OF COV-*
19 *ERAGE.*—A qualified association sponsor offering
20 a MedicarePlus plan to an individual may not
21 terminate coverage of the individual on the basis
22 that the individual is no longer a member of the
23 association except pursuant to a change of elec-
24 tion during an open election period occurring on

1 *or after the date of the termination of member-*
2 *ship.*

3 “(3) *SPECIAL RULES FOR UNION, TAFT-HARTLEY,*
4 *AND QUALIFIED ASSOCIATION SPONSORS.—*

5 “(A) *UNIONS.—Subject to subparagraph*
6 *(D), a union sponsor (as defined in section*
7 *1859(a)(5)) shall limit eligibility of enrollees*
8 *under this part for MedicarePlus plans it offers*
9 *to individuals who are members of the sponsor*
10 *and affiliated with the sponsor through an em-*
11 *ployment relationship with any employer or are*
12 *the spouses of such members.*

13 “(B) *TAFT-HARTLEY SPONSORS.—Subject to*
14 *subparagraph (D), a MedicarePlus organization*
15 *that is a Taft-Hartley sponsor (as defined in sec-*
16 *tion 1859(a)(4)) shall limit eligibility of enroll-*
17 *ees under this part for MedicarePlus plans it of-*
18 *fers to individuals who are entitled to obtain*
19 *benefits through such plans under the terms of*
20 *an applicable collective bargaining agreement.*

21 “(C) *QUALIFIED ASSOCIATION SPONSORS.—*

22 “(i) *IN GENERAL.—Subject to subpara-*
23 *graph (D), a MedicarePlus organization*
24 *that is a qualified association sponsor (as*
25 *defined in section 1859(a)(3)) shall limit*

1 *eligibility of individuals under this part for*
2 *plans it offers to individuals who are mem-*
3 *bers of the association (or who are spouses*
4 *of such individuals).*

5 “(ii) *LIMITATION ON TERMINATION OF*
6 *COVERAGE.—Such a qualifying association*
7 *sponsor offering a MedicarePlus plan to an*
8 *individual may not terminate coverage of*
9 *the individual on the basis that the individ-*
10 *ual is no longer a member of the association*
11 *except pursuant to a change of election dur-*
12 *ing an open election period occurring on or*
13 *after the date of the termination of member-*
14 *ship.*

15 “(D) *LIMITATION.—Rules of eligibility to*
16 *carry out the previous subparagraphs of this*
17 *paragraph shall not have the effect of denying*
18 *eligibility to individuals on the basis of health*
19 *status, claims experience, receipt of health care,*
20 *medical history, or lack of evidence of insurabil-*
21 *ity.*

22 “(E) *NO REELECTION AFTER*
23 *DISENROLLMENT FOR CERTAIN PLANS.—An indi-*
24 *vidual is not eligible to elect a MedicarePlus*
25 *plan offered by a MedicarePlus organization that*

1 is a union sponsor or a Taft-Hartley sponsor if
2 the individual previously had elected a
3 MedicarePlus plan offered by the organization
4 and had subsequently discontinued election of
5 such a plan offered by the organization.

6 “(4) SPECIAL RULE FOR CERTAIN INDIVIDUALS
7 COVERED UNDER FEHBP.—An individual who is en-
8 rolled in a health benefit plan under chapter 89 of
9 title 5, United States Code, is not eligible to enroll in
10 a high deductible plan until such time as the Director
11 of the Office of Management and Budget certifies to
12 the Secretary that the Office of Personnel Manage-
13 ment has adopted policies which will ensure that the
14 enrollment of such individuals in such plans will not
15 result in increased expenditures for the Federal Gov-
16 ernment for health benefit plans under such chapter.

17 “(c) PROCESS FOR EXERCISING CHOICE.—

18 “(1) IN GENERAL.—The Secretary shall establish
19 a process through which elections described in sub-
20 section (a) are made and changed, including the form
21 and manner in which such elections are made and
22 changed. Such elections shall be made or changed only
23 during coverage election periods specified under sub-
24 section (e) and shall become effective as provided in
25 subsection (f).

1 “(2) *EXPEDITED IMPLEMENTATION.*—*The Sec-*
2 *retary shall establish the process of electing coverage*
3 *under this section during the transition period (as de-*
4 *fined in subsection (e)(1)(B)) in such an expedited*
5 *manner as will permit such an election for*
6 *MedicarePlus plans in an area as soon as such plans*
7 *become available in that area.*

8 “(3) *COORDINATION THROUGH MEDICAREPLUS*
9 *ORGANIZATIONS.*—

10 “(A) *ENROLLMENT.*—*Such process shall*
11 *permit an individual who wishes to elect a*
12 *MedicarePlus plan offered by a MedicarePlus or-*
13 *ganization to make such election through the fil-*
14 *ing of an appropriate election form with the or-*
15 *ganization.*

16 “(B) *DISENROLLMENT.*—*Such process shall*
17 *permit an individual, who has elected a*
18 *MedicarePlus plan offered by a MedicarePlus or-*
19 *ganization and who wishes to terminate such*
20 *election, to terminate such election through the*
21 *filing of an appropriate election form with the*
22 *organization.*

23 “(4) *DEFAULT.*—

24 “(A) *INITIAL ELECTION.*—

1 “(i) *IN GENERAL.*—*Subject to clause*
2 *(ii), an individual who fails to make an*
3 *election during an initial election period*
4 *under subsection (e)(1) is deemed to have*
5 *chosen the Medicare fee-for-service program*
6 *option.*

7 “(ii) *SEAMLESS CONTINUATION OF*
8 *COVERAGE.*—*The Secretary shall establish*
9 *procedures under which individuals who are*
10 *enrolled with a MedicarePlus organization*
11 *at the time of the initial election period and*
12 *who fail to elect to receive coverage other*
13 *than through the organization are deemed*
14 *to have elected the MedicarePlus plan of-*
15 *fered by the organization (or, if the organi-*
16 *zation offers more than one such plan, the*
17 *MedicarePlus plan offered by the organiza-*
18 *tion with the lowest net monthly premium).*

19 “(B) *CONTINUING PERIODS.*—*An individual*
20 *who has made (or is deemed to have made) an*
21 *election under this section is considered to have*
22 *continued to make such election until such time*
23 *as—*

24 “(i) *the individual changes the election*
25 *under this section, or*

1 “(ii) a MedicarePlus plan is discon-
2 tinued, if the individual had elected such
3 plan at the time of the discontinuation.

4 “(d) PROVIDING INFORMATION TO PROMOTE IN-
5 FORMED CHOICE.—

6 “(1) IN GENERAL.—The Secretary shall provide
7 for activities under this subsection to broadly dissemi-
8 nate information to medicare beneficiaries (and pro-
9 spective medicare beneficiaries) on the coverage op-
10 tions provided under this section in order to promote
11 an active, informed selection among such options.

12 “(2) PROVISION OF NOTICE.—

13 “(A) OPEN SEASON NOTIFICATION.—At least
14 15 days before the beginning of each annual, co-
15 ordinated election period, the Secretary shall
16 mail to each MedicarePlus eligible individual re-
17 siding in an area the following:

18 “(i) GENERAL ELECTION INFORMATION
19 AND INFORMATION ABOUT MEDICARE FEE-
20 FOR-SERVICE PROGRAM.—The general infor-
21 mation regarding election, benefits coverage,
22 and procedures described in paragraph (3).

23 “(ii) LIST OF PLANS AND COMPARISON
24 OF PLAN OPTIONS.—A list identifying the
25 MedicarePlus plans that are (or will be)

1 *available to residents of the area (and their*
2 *service areas) and information, described in*
3 *paragraph (4) and in comparative form,*
4 *concerning such plans.*

5 “(iii) *MEDICAREPLUS MONTHLY CAPI-*
6 *TATION RATE.—The amount of the monthly*
7 *MedicarePlus capitation rate for the area.*

8 “(iv) *ADDITIONAL INFORMATION.—Any*
9 *other information that the Secretary deter-*
10 *mines will assist the individual in making*
11 *the election under this section.*

12 *The mailing of such information shall be coordi-*
13 *nated with the mailing of any annual notice*
14 *under section 1804.*

15 “(B) *NOTIFICATION TO NEWLY*
16 *MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the*
17 *extent practicable, the Secretary shall, not later*
18 *than 2 months before the beginning of the initial*
19 *MedicarePlus enrollment period for an individ-*
20 *ual described in subsection (e)(1)(A), mail to the*
21 *individual the information described in subpara-*
22 *graph (A).*

23 “(C) *FORM.—The information disseminated*
24 *under this paragraph shall be written and*

1 *formatted in the most easily understandable*
2 *manner possible.*

3 “(D) *PERIODIC UPDATING.*—*The informa-*
4 *tion described in subparagraph (A) shall be up-*
5 *dated on at least an annual basis to reflect*
6 *changes in the availability of MedicarePlus*
7 *plans and the benefits and monthly premiums*
8 *(and net monthly premiums) for such plans.*

9 “(3) *GENERAL ELECTION INFORMATION AND IN-*
10 *FORMATION ABOUT MEDICARE FEE-FOR-SERVICE PRO-*
11 *GRAM.*—*General information under this paragraph,*
12 *with respect to coverage under this part during a*
13 *year, shall include the following:*

14 “(A) *BENEFITS.*—*A general description of*
15 *the benefits covered (and not covered) under the*
16 *medicare fee-for-service program under parts A*
17 *and B, including—*

18 “(i) *covered items and services, and*

19 “(ii) *beneficiary cost sharing, such as*
20 *deductibles, coinsurance, and copayment*
21 *amounts, and the beneficiary liability for*
22 *balance billing.*

23 “(B) *PART B PREMIUM.*—*The part B pre-*
24 *mium rates that will be charged for part B cov-*
25 *erage.*

1 “(C) *ELECTION PROCEDURES.*—*Information*
2 *and instructions on how to exercise election op-*
3 *tions under this section.*

4 “(D) *PROCEDURAL RIGHTS.*—*The general*
5 *description of procedural rights (including griev-*
6 *ance procedures) of beneficiaries under the medi-*
7 *care fee-for-service program and the*
8 *MedicarePlus program.*

9 “(E) *RIGHT OF ORGANIZATION TO TERMI-*
10 *NATE CONTRACT.*—*The right of each*
11 *MedicarePlus organization by law to terminate*
12 *or refuse to renew its contract and the effect the*
13 *termination or nonrenewal of its contract may*
14 *have on individuals enrolled with the*
15 *MedicarePlus plan under this part.*

16 “(F) *USE OF 911 EMERGENCY NUMBER.*—*A*
17 *statement that the use of the 911 emergency tele-*
18 *phone number is appropriate in emergency situ-*
19 *ations and an explanation of what constitutes an*
20 *emergency situation.*

21 “(4) *INFORMATION COMPARING PLAN OPTIONS.*—
22 *Information under this paragraph, with respect to a*
23 *MedicarePlus plan for a year, shall include the fol-*
24 *lowing:*

1 “(A) *BENEFITS.*—*The benefits covered*
2 *under the plan, including covered items and*
3 *services beyond those provided under the medi-*
4 *care fee-for-service program, any reductions in*
5 *beneficiary cost sharing, and any maximum lim-*
6 *itations on out-of-pocket losses.*

7 “(B) *PREMIUMS.*—*The monthly premium*
8 *(and net monthly premium, including any re-*
9 *bate) for the plan.*

10 “(C) *QUALITY.*—*(i) To the extent available,*
11 *quality indicators for the benefits under the plan*
12 *(in comparison with quality indicators under*
13 *the Medicare fee-for-service program under parts*
14 *A and B in the area involved), including—*

15 “(I) *disenrollment rates for medicare*
16 *enrollees electing to receive benefits through*
17 *the plan for the previous 2 years (excluding*
18 *disenrollment due to death or moving out-*
19 *side the plan’s service area),*

20 “(II) *information on medicare enrollee*
21 *satisfaction and health outcomes, and*

22 “(III) *whether the plan is out of com-*
23 *pliance with any requirements of this part*
24 *(as determined by the Secretary).*

1 “(D) *SUPPLEMENTAL COVERAGE OP-*
2 *TIONS.—Whether the organization offering the*
3 *plan offers optional supplemental coverage.*

4 “(5) *MAINTAINING A TOLL-FREE NUMBER.—The*
5 *Secretary shall maintain a toll-free number for in-*
6 *quiries regarding MedicarePlus options and the oper-*
7 *ation of part C in all areas in which MedicarePlus*
8 *plans are offered.*

9 “(6) *USE OF NONFEDERAL ENTITIES.—The Sec-*
10 *retary shall, to the maximum extent feasible, enter*
11 *into contracts with appropriate non-Federal entities*
12 *to carry out activities under this subsection.*

13 “(7) *PROVISION OF INFORMATION.—A*
14 *MedicarePlus organization shall provide the Secretary*
15 *with such information on the organization and each*
16 *MedicarePlus plan it offers as may be required for the*
17 *preparation of the information referred to in para-*
18 *graph (2)(A).*

19 “(e) *COVERAGE ELECTION PERIODS.—*

20 “(1) *INITIAL CHOICE UPON ELIGIBILITY TO MAKE*
21 *ELECTION.—*

22 “(A) *IN GENERAL.—In the case of an indi-*
23 *vidual who first becomes entitled to benefits*
24 *under part A and enrolled under part B after*
25 *the beginning of the transition period (as defined*

1 in subparagraph (B)), the individual shall make
2 the election under this section during a period
3 (of a duration and beginning at a time specified
4 by the Secretary) at the first time the individual
5 both is entitled to benefits under part A and en-
6 rolled under part B. Such period shall be speci-
7 fied in a manner so that, in the case of an indi-
8 vidual who elects a MedicarePlus plan during
9 the period, coverage under the plan becomes effec-
10 tive as of the first date on which the individual
11 may receive such coverage.

12 “(B) *TRANSITION PERIOD DEFINED.*—In
13 this subsection, the term ‘transition period’
14 means, with respect to an individual in an area,
15 the period beginning on the first day of the first
16 month in which a MedicarePlus plan is first
17 made available to individuals in the area and
18 ending with the month preceding the beginning
19 of the first annual, coordinated election period
20 under paragraph (3).

21 “(2) *DURING TRANSITION PERIOD.*—Subject to
22 paragraph (6)—

23 “(A) *CONTINUOUS OPEN ENROLLMENT INTO*
24 *A MEDICAREPLUS OPTION.*—During the transi-
25 tion period, a MedicarePlus eligible individual

1 *who has elected the Medicare fee-for-service pro-*
2 *gram option described in subsection (a)(1)(A)*
3 *may change such election to a MedicarePlus op-*
4 *tion described in subsection (a)(1)(B) at any*
5 *time.*

6 “(B) *OPEN DISENROLLMENT BEFORE END*
7 *OF TRANSITION PERIOD.—*

8 “(i) *IN GENERAL.—During the transi-*
9 *tion period, an individual who has elected*
10 *a MedicarePlus option described in sub-*
11 *section (a)(1)(B) for a MedicarePlus plan*
12 *may change such election to another*
13 *MedicarePlus plan or to the Medicare fee-*
14 *for-service program option described in sub-*
15 *section (a)(1)(A).*

16 “(ii) *SPECIAL RULE.—During the*
17 *transition period, an individual who has*
18 *elected a high deductible plan may not*
19 *change such election to a MedicarePlus plan*
20 *that is not a high deductible plan unless the*
21 *individual has had such election in effect*
22 *for 12 consecutive months.*

23 “(3) *ANNUAL, COORDINATED ELECTION PE-*
24 *RIOD.—*

1 “(A) *IN GENERAL.*—Subject to paragraph
2 (5), each individual who is eligible to make an
3 election under this section may change such elec-
4 tion during an annual, coordinated election pe-
5 riod.

6 “(B) *ANNUAL, COORDINATED ELECTION PE-*
7 *RIOD.*—For purposes of this section, the term
8 ‘annual, coordinated election period’ means, with
9 respect to a calendar year (beginning with
10 1998), the month of October before such year.

11 “(C) *MEDICAREPLUS HEALTH FAIR DURING*
12 *OCTOBER, 1996.*—In the month of October, 1996,
13 the Secretary shall provide for a nationally co-
14 ordinated educational and publicity campaign to
15 inform MedicarePlus eligible individuals about
16 such plans and the election process provided
17 under this section (including the annual, coordi-
18 nated election periods that occur in subsequent
19 years).

20 “(4) *SPECIAL 90-DAY DISENROLLMENT OPTION.*—

21 “(A) *IN GENERAL.*—In the case of the first
22 time an individual elects any MedicarePlus plan
23 (other than a high deductible plan) offered by a
24 particular MedicarePlus organization under this
25 section, the individual may change such election

1 through the filing of an appropriate notice dur-
2 ing the 90-day period beginning on the first day
3 on which the individual's coverage under the
4 MedicarePlus plan under such option becomes ef-
5 fective.

6 “(B) LIMITATION.—Subparagraph (A)—

7 “(i) shall only apply once for an indi-
8 vidual with respect to any particular orga-
9 nization, and

10 “(ii) may not apply more than twice
11 for any individual in a calendar year.

12 “(C) EFFECT OF DISCONTINUATION OF
13 ELECTION.—An individual who discontinues an
14 election under subparagraph (A) may, during
15 the period specified by the Secretary, make a
16 new election under this subsection (a) (or, in the
17 absence of such an election, is deemed at the time
18 of such discontinuation to have elected the Medi-
19 care fee-for-service program option described in
20 subsection (a)(1)(A)).

21 “(5) SPECIAL ELECTION PERIODS.—An individ-
22 ual may discontinue an election of a MedicarePlus
23 plan offered by a MedicarePlus organization other
24 than during an annual, coordinated election period
25 and make a new election under this section if—

1 “(A) the organization’s or plan’s certifi-
2 cation under part C has been terminated or the
3 organization has terminated or otherwise discon-
4 tinued providing the plan;

5 “(B) the individual is no longer eligible to
6 elect the plan because of a change in the individ-
7 ual’s place of residence or other change in cir-
8 cumstances (specified by the Secretary, but not
9 including termination of membership in a quali-
10 fied association in the case of a plan offered by
11 a qualified association sponsor or termination of
12 the individual’s enrollment on the basis described
13 in clause (i) or (ii) section 1851(g)(3)(B));

14 “(C) the individual demonstrates (in ac-
15 cordance with guidelines established by the Sec-
16 retary) that—

17 “(i) the organization offering the plan
18 substantially violated a material provision
19 of the organization’s contract under part C
20 in relation to the individual and the plan;
21 or

22 “(ii) the organization (or an agent or
23 other entity acting on the organization’s be-
24 half) materially misrepresented the plan’s

1 provisions in marketing the plan to the in-
2 dividual; or

3 “(D) the individual meets such other condi-
4 tions as the Secretary may provide.

5 “(6) *SPECIAL RULE FOR HIGH DEDUCTIBLE*
6 *PLANS.*—Notwithstanding the previous provisions of
7 this subsection, an individual may elect a high de-
8 ductible plan only during an annual, coordinated
9 election period described in paragraph (3)(B) or dur-
10 ing the month of October, 1996.

11 “(f) *EFFECTIVENESS OF ELECTIONS.*—

12 “(1) *DURING INITIAL COVERAGE ELECTION PE-*
13 *RIOD.*—An election of coverage made during the ini-
14 tial coverage election period under subsection
15 (e)(1)(A) shall take effect upon the date the individual
16 becomes entitled to benefits under part A and enrolled
17 under part B, except as the Secretary may provide
18 (consistent with section 1838) in order to prevent ret-
19 roactive coverage.

20 “(2) *DURING TRANSITION; 90-DAY*
21 *DISENROLLMENT OPTION.*—An election of coverage
22 made under subsection (e)(2) and an election to dis-
23 continue a MedicarePlus option under subsection
24 (e)(4) at any time shall take effect with the first cal-

1 *endar month following the date on which the election*
2 *is made.*

3 *“(3) ANNUAL, COORDINATED ELECTION PERIOD*
4 *AND HIGH DEDUCTIBLE PLAN ELECTION.—An election*
5 *of coverage made during an annual, coordinated elec-*
6 *tion period (as defined in subsection (e)(3)(B)) in a*
7 *year or for a high deductible plan shall take effect as*
8 *of the first day of the following year.*

9 *“(4) OTHER PERIODS.—An election of coverage*
10 *made during any other period under subsection (e)(5)*
11 *shall take effect in such manner as the Secretary pro-*
12 *vides in a manner consistent (to the extent prac-*
13 *ticable) with protecting continuity of health benefit*
14 *coverage.*

15 *“(g) GUARANTEED ISSUE AND RENEWAL.—*

16 *“(1) IN GENERAL.—Except as provided in this*
17 *subsection, a MedicarePlus organization shall provide*
18 *that at any time during which elections are accepted*
19 *under this section with respect to a MedicarePlus*
20 *plan offered by the organization, the organization will*
21 *accept without restrictions individuals who are eligi-*
22 *ble to make such election.*

23 *“(2) PRIORITY.—If the Secretary determines that*
24 *a MedicarePlus organization, in relation to a*
25 *MedicarePlus plan it offers, has a capacity limit and*

1 *the number of MedicarePlus eligible individuals who*
2 *elect the plan under this section exceeds the capacity*
3 *limit, the organization may limit the election of indi-*
4 *viduals of the plan under this section but only if pri-*
5 *ority in election is provided—*

6 *“(A) first to such individuals as have elect-*
7 *ed the plan at the time of the determination, and*

8 *“(B) then to other such individuals in such*
9 *a manner that does not discriminate among the*
10 *individuals (who seek to elect the plan) on a*
11 *basis described in section 1852(b).*

12 *The preceding sentence shall not apply if it would re-*
13 *sult in the enrollment of enrollees substantially*
14 *nonrepresentative, as determined in accordance with*
15 *regulations of the Secretary, of the medicare popu-*
16 *lation in the service area of the plan.*

17 *“(3) LIMITATION ON TERMINATION OF ELEC-*
18 *TION.—*

19 *“(A) IN GENERAL.—Subject to subpara-*
20 *graph (B), a MedicarePlus organization may not*
21 *for any reason terminate the election of any in-*
22 *dividual under this section for a MedicarePlus*
23 *plan it offers.*

24 *“(B) BASIS FOR TERMINATION OF ELEC-*
25 *TION.—A MedicarePlus organization may termi-*

1 nate an individual's election under this section
2 with respect to a MedicarePlus plan it offers if—

3 “(i) any net monthly premiums re-
4 quired with respect to such plan are not
5 paid on a timely basis (consistent with
6 standards under section 1856 that provide
7 for a grace period for late payment of net
8 monthly premiums),

9 “(ii) the individual has engaged in
10 disruptive behavior (as specified in such
11 standards), or

12 “(iii) the plan is terminated with re-
13 spect to all individuals under this part.

14 Any individual whose election is so terminated is
15 deemed to have elected the Medicare fee-for-serv-
16 ice program option described in subsection
17 (a)(1)(A).

18 “(C) *LIMITATION ON TERMINATION OF COV-*
19 *ERAGE.*—A qualified association sponsor offering
20 a MedicarePlus plan to an individual may not
21 terminate coverage of the individual on the basis
22 that the individual is no longer a member of the
23 association except pursuant to a change of elec-
24 tion during an open election period occurring on

1 *or after the date of the termination of member-*
2 *ship.*

3 “(D) ORGANIZATION OBLIGATION WITH RE-
4 SPECT TO ELECTION FORMS.—Pursuant to a
5 contract under section 1857, each MedicarePlus
6 organization receiving an election form under
7 subsection (c)(3) shall transmit to the Secretary
8 (at such time and in such manner as the Sec-
9 retary may specify) a copy of such form or such
10 other information respecting the election as the
11 Secretary may specify.

12 “(h) APPROVAL OF MARKETING MATERIALS.—

13 “(1) SUBMISSION.—No marketing materials may
14 be distributed by a MedicarePlus organization to (or
15 for the use of) MedicarePlus eligible individuals un-
16 less—

17 “(A) at least 45 days before the date of dis-
18 tribution the organization has submitted the ma-
19 terial to the Secretary for review, and

20 “(B) the Secretary has not disapproved the
21 distribution of such material.

22 “(2) REVIEW.—The standards established under
23 section 1856 shall include guidelines for the review of
24 all such material submitted and under such guide-
25 lines the Secretary shall disapprove such material if

1 *the material is materially inaccurate or misleading*
2 *or otherwise makes a material misrepresentation.*

3 “(3) *DEEMED APPROVAL (1-STOP SHOPPING).*—

4 *In the case of material that is submitted under para-*
5 *graph (1)(A) to the Secretary or a regional office of*
6 *the Department of Health and Human Services and*
7 *the Secretary or the office has not disapproved the*
8 *distribution of marketing materials under paragraph*
9 *(1)(B) with respect to a MedicarePlus plan in an*
10 *area, the Secretary is deemed not to have disapproved*
11 *such distribution in all other areas covered by the*
12 *plan and organization.*

13 “(4) *PROHIBITION OF CERTAIN MARKETING*

14 *PRACTICES.*—*Each MedicarePlus organization shall*
15 *conform to fair marketing standards in relation to*
16 *MedicarePlus plans offered under this part, included*
17 *in the standards established under section 1856. Such*
18 *standards shall include a prohibition against an or-*
19 *ganization (or agent of such an organization) com-*
20 *pleting any portion of any election form used to carry*
21 *out elections under this section on behalf of any indi-*
22 *vidual.*

23 “(i) *EFFECT OF ELECTION OF MEDICAREPLUS PLAN*

24 *OPTION.*—*Subject to section 1852(a)(5)—*

1 “(1) *payments under a contract with a*
2 *MedicarePlus organization under section 1854(a)*
3 *with respect to an individual electing a MedicarePlus*
4 *plan offered by the organization shall be instead of*
5 *the amounts which (in the absence of the contract)*
6 *would otherwise be payable under parts A and B for*
7 *items and services furnished to the individual, and*

8 “(2) *subject to subsections (e) and (f) of section*
9 *1854, only the MedicarePlus organization shall be en-*
10 *titled to receive payments from the Secretary under*
11 *this title for services furnished to the individual.*

12 “(j) *ADMINISTRATION.—*

13 “(1) *IN GENERAL.—This part and section 1876*
14 *shall be administered through an operating division*
15 *(A) that is established or identified by the Secretary*
16 *and is in the Department of Health and Human*
17 *Services, (B) that is separate from the Health Care*
18 *Financing Administration, and (C) the primary*
19 *function of which is the administration of this part*
20 *and such section. The director of such division shall*
21 *be of equal pay and rank to that of the individual re-*
22 *sponsible for overall administration of parts A and B.*

23 “(2) *TRANSFER AUTHORITY.—The Secretary*
24 *shall transfer such personnel, administrative support*
25 *systems, assets, records, funds, and other resources in*

1 *the Health Care Financing Administration to the op-*
2 *erating division referred to in paragraph (1) as are*
3 *used in the administration of section 1876 and as*
4 *may be required to implement the provisions of this*
5 *part promptly and efficiently.*

6 “*BENEFITS AND BENEFICIARY PROTECTIONS*

7 “*SEC. 1852. (a) BASIC BENEFITS.—*

8 “*(1) IN GENERAL.—Except as provided in sec-*
9 *tion 1859(b)(2) for high deductible plans, each*
10 *MedicarePlus plan shall provide to members enrolled*
11 *under this part, through providers and other persons*
12 *that meet the applicable requirements of this title and*
13 *part A of title XI—*

14 “*(A) those items and services for which ben-*
15 *efits are available under parts A and B to indi-*
16 *viduals residing in the area served by the plan,*
17 *and*

18 “*(B) additional health services as the Sec-*
19 *retary may approve.*

20 *The Secretary shall approve any such additional*
21 *health care services which the plan proposes to offer*
22 *to such members, unless the Secretary determines that*
23 *including such additional services will substantially*
24 *discourage enrollment by MedicarePlus eligible indi-*
25 *viduals with the plan.*

1 “(2) *SATISFACTION OF REQUIREMENT.—A*
2 *MedicarePlus plan (other than a high deductible*
3 *plan) offered by a MedicarePlus organization satisfies*
4 *paragraph (1)(A) with respect to benefits for items*
5 *and services if the following requirements are met:*

6 “(A) *FEE FOR SERVICE PROVIDERS.—In the*
7 *case of benefits furnished through a provider that*
8 *does not have a contract with the organization,*
9 *the plan provides for at least the dollar amount*
10 *of payment for such items and services as would*
11 *otherwise be provided under parts A and B.*

12 “(B) *PARTICIPATING PROVIDERS.—In the*
13 *case of benefits furnished through a provider that*
14 *has such a contract, the individual’s liability for*
15 *payment for such items and services does not ex-*
16 *ceed (after taking into account any deductible,*
17 *which does not exceed any deductible under parts*
18 *A and B) the lesser of the following:*

19 “(i) *INDIVIDUAL’S LIABILITY UNDER*
20 *MEDICARE FEE-FOR-SERVICE PROGRAM.—*

21 *The amount of the liability that the indi-*
22 *vidual would have had (based on the pro-*
23 *vider being a participating provider) if the*
24 *individual had not elected coverage under a*
25 *MedicarePlus plan.*

1 “(i) *MEDICARE COINSURANCE AP-*
2 *PLIED TO PLAN PAYMENT RATES.*—*The ap-*
3 *plicable coinsurance or copayment rate*
4 *(that would have applied under the Medi-*
5 *care fee-for-service program option described*
6 *in section 1851(a)(1)(A)) of the payment*
7 *rate provided under the contract.*

8 “(3) *SUPPLEMENTAL OPTIONAL BENEFITS.*—
9 *Each MedicarePlus organization may offer under a*
10 *MedicarePlus plan optional supplemental benefits to*
11 *each individual enrolled in the plan under this part*
12 *for an additional premium amount. If the supple-*
13 *mental benefits are offered only to individuals en-*
14 *rolled in the sponsor’s plan under this part, the addi-*
15 *tional premium amount shall be the same for all en-*
16 *rolled individuals in the MedicarePlus payment area.*
17 *Such benefits may be marketed and sold by the*
18 *MedicarePlus organization outside of the enrollment*
19 *process described in section 1851(c).*

20 “(4) *ORGANIZATION AS SECONDARY PAYER.*—
21 *Notwithstanding any other provision of law, a*
22 *MedicarePlus organization may (in the case of the*
23 *provision of items and services to an individual*
24 *under a MedicarePlus plan under circumstances in*
25 *which payment under this title is made secondary*

1 *pursuant to section 1862(b)(2)) charge or authorize*
2 *the provider of such services to charge, in accordance*
3 *with the charges allowed under such a law, plan, or*
4 *policy—*

5 *“(A) the insurance carrier, employer, or*
6 *other entity which under such law, plan, or pol-*
7 *icy is to pay for the provision of such services,*
8 *or*

9 *“(B) such individual to the extent that the*
10 *individual has been paid under such law, plan,*
11 *or policy for such services.*

12 *“(5) NATIONAL COVERAGE DETERMINATIONS.—If*
13 *there is a national coverage determination made in*
14 *the period beginning on the date of an announcement*
15 *under section 1854(b) and ending on the date of the*
16 *next announcement under such section and the Sec-*
17 *retary projects that the determination will result in*
18 *a significant change in the costs to a MedicarePlus*
19 *organization of providing the benefits that are the*
20 *subject of such national coverage determination and*
21 *that such change in costs was not incorporated in the*
22 *determination of the annual MedicarePlus capitation*
23 *rate under section 1854 included in the announce-*
24 *ment made at the beginning of such period—*

1 “(A) such determination shall not apply to
2 contracts under this part until the first contract
3 year that begins after the end of such period, and

4 “(B) if such coverage determination pro-
5 vides for coverage of additional benefits or cov-
6 erage under additional circumstances, section
7 1851(i) shall not apply to payment for such ad-
8 ditional benefits or benefits provided under such
9 additional circumstances until the first contract
10 year that begins after the end of such period,
11 unless otherwise required by law.

12 “(b) *ANTIDISCRIMINATION.*—A MedicarePlus organi-
13 zation may not deny, limit, or condition the coverage or
14 provision of benefits under this part based on the health
15 status, claims experience, receipt of health care, medical his-
16 tory, or lack of evidence of insurability, of an individual.
17 A MedicarePlus organization shall notify each enrollee
18 under this part of provisions of this subsection at the time
19 of the individual’s enrollment.

20 “(c) *DETAILED DESCRIPTION OF PLAN PROVISIONS.*—
21 A MedicarePlus organization shall disclose, in clear, accu-
22 rate, and standardized form to each enrollee with a
23 MedicarePlus plan offered by the organization under this
24 part at the time of enrollment and at least annually there-
25 after, the following information regarding such plan:

1 “(1) *SERVICE AREA.*—*The plan’s service area.*

2 “(2) *BENEFITS.*—*Benefits under the plan offered,*
3 *including information described in section*
4 *1851(d)(3)(A) and exclusions from coverage and, if it*
5 *is a high deductible plan, a comparison of benefits*
6 *under such a plan with benefits under other*
7 *MedicarePlus plans.*

8 “(3) *ACCESS.*—*The number, mix, and distribu-*
9 *tion of participating providers.*

10 “(4) *OUT-OF-AREA COVERAGE.*— *Out-of-area*
11 *coverage provided by the plan.*

12 “(5) *EMERGENCY COVERAGE.*—*Coverage of emer-*
13 *gency services and urgently needed care.*

14 “(6) *OPTIONAL SUPPLEMENTAL COVERAGE.*—
15 *Optional supplemental coverage available from the or-*
16 *ganization offering the plan, including—*

17 “(A) *supplemental items and services cov-*
18 *ered, and*

19 “(B) *the premium price for the optional*
20 *supplemental benefits.*

21 “(7) *PRIOR AUTHORIZATION RULES.*—*Rules re-*
22 *garding prior authorization or other review require-*
23 *ments that could result in nonpayment.*

1 “(8) *PLAN GRIEVANCE PROCEDURES.*— *Any*
2 *plan-specific appeal or grievance rights and proce-*
3 *dures.*

4 “(9) *QUALITY ASSURANCE PROGRAM.*—*A descrip-*
5 *tion of the organization’s quality assurance program*
6 *under subsection (e).*

7 “(d) *ACCESS TO SERVICES.*—

8 “(1) *IN GENERAL.*—*A MedicarePlus organization*
9 *offering a MedicarePlus plan may restrict the provid-*
10 *ers from whom the benefits under the plan are pro-*
11 *vided so long as—*

12 “(A) *the organization makes such benefits*
13 *available and accessible to each individual elect-*
14 *ing the plan within the plan service area with*
15 *reasonable promptness and in a manner which*
16 *assures continuity in the provision of benefits;*

17 “(B) *when medically necessary the organi-*
18 *zation makes such benefits available and acces-*
19 *sible 24 hours a day and 7 days a week;*

20 “(C) *the plan provides for reimbursement*
21 *with respect to services which are covered under*
22 *subparagraphs (A) and (B) and which are pro-*
23 *vided to such an individual other than through*
24 *the organization, if—*

1 “(i) the services were medically nec-
2 essary and immediately required because of
3 an unforeseen illness, injury, or condition,
4 and

5 “(ii) it was not reasonable given the
6 circumstances to obtain the services through
7 the organization;

8 “(D) the organization provides access to ap-
9 propriate providers, including credentialed spe-
10 cialists, for medically necessary treatment and
11 services, and

12 “(E) coverage is provided for emergency
13 services (as defined in paragraph (3)) without
14 regard to prior authorization or the emergency
15 care provider’s contractual relationship with the
16 organization.

17 “(2) *PROTECTION OF ENROLLEES FOR CERTAIN*
18 *EMERGENCY SERVICES.*—

19 “(A) *PARTICIPATING PROVIDERS.*—*In the*
20 *case of emergency services described in subpara-*
21 *graph (C) which are furnished by a participat-*
22 *ing physician or provider of services to an indi-*
23 *vidual enrolled with a MedicarePlus organiza-*
24 *tion under this section, the applicable participa-*
25 *tion agreement is deemed to provide that the*

1 *physician or provider of services will accept as*
2 *payment in full from the organization for such*
3 *emergency services described in subparagraph*
4 *(C) the amount that would be payable to the*
5 *physician or provider of services under part B*
6 *and from the individual under such part, if the*
7 *individual were not enrolled with such an orga-*
8 *nization under this part.*

9 *“(B) NONPARTICIPATING PROVIDERS.—In*
10 *the case of emergency services described in sub-*
11 *paragraph (C) which are furnished by a*
12 *nonparticipating physician, the limitations on*
13 *actual charges for such services otherwise appli-*
14 *cable under part B (to services furnished by in-*
15 *dividuals not enrolled with a MedicarePlus orga-*
16 *nization under this section) shall apply in the*
17 *same manner as such limitations apply to serv-*
18 *ices furnished to individuals not enrolled with*
19 *such an organization.*

20 *“(C) EMERGENCY SERVICES DESCRIBED.—*
21 *The emergency services described in this sub-*
22 *paragraph are emergency services which are fur-*
23 *nished to an enrollee of a MedicarePlus organi-*
24 *zation under this part by a physician or pro-*

1 *vider of services that is not under a contract*
2 *with the organization.*

3 “(D) *EXCEPTION FOR UNRESTRICTED FEE-*
4 *FOR-SERVICE PLANS.—The previous provisions of*
5 *this paragraph shall not apply in the case of a*
6 *MedicarePlus organization in relation to a*
7 *MedicarePlus unrestricted fee-for-service plan (as*
8 *defined in section 1859(b)(3)).*

9 “(3) *DEFINITION OF EMERGENCY SERVICES.—In*
10 *this subsection, the term ‘emergency services’ means,*
11 *with respect to an individual enrolled with an orga-*
12 *nization, covered inpatient and outpatient services*
13 *that—*

14 “(A) *are furnished by an appropriate*
15 *source other than the organization,*

16 “(B) *are needed immediately because of an*
17 *injury or sudden illness, and*

18 “(C) *are needed because the time required to*
19 *reach the organization’s providers or suppliers*
20 *would have meant risk of serious damage to the*
21 *patient’s health.*

22 “(e) *QUALITY ASSURANCE PROGRAM.—*

23 “(1) *IN GENERAL.—Each MedicarePlus organi-*
24 *zation must have arrangements, established in accord-*
25 *ance with regulations of the Secretary, for an ongoing*

1 *quality assurance program for health care services it*
2 *provides to individuals enrolled with MedicarePlus*
3 *plans of the organization.*

4 “(2) *ELEMENTS OF PROGRAM.—The quality as-*
5 *urance program shall—*

6 “(A) *stress health outcomes;*

7 “(B) *provide for the establishment of writ-*
8 *ten protocols for utilization review, based on cur-*
9 *rent standards of medical practice;*

10 “(C) *provide review by physicians and*
11 *other health care professionals of the process fol-*
12 *lowed in the provision of such health care serv-*
13 *ices;*

14 “(D) *monitor and evaluate high volume and*
15 *high risk services and the care of acute and*
16 *chronic conditions;*

17 “(E) *evaluate the continuity and coordina-*
18 *tion of care that enrollees receive;*

19 “(F) *have mechanisms to detect both under-*
20 *utilization and overutilization of services;*

21 “(G) *after identifying areas for improve-*
22 *ment, establish or alter practice parameters;*

23 “(H) *take action to improve quality and as-*
24 *sesses the effectiveness of such action through sys-*
25 *tematic follow-up;*

1 “(I) make available information on quality
2 and outcomes measures to facilitate beneficiary
3 comparison and choice of health coverage options
4 (in such form and on such quality and outcomes
5 measures as the Secretary determines to be ap-
6 propriate); and

7 “(J) be evaluated on an ongoing basis as to
8 its effectiveness.

9 “(3) *EXTERNAL REVIEW.*—Each MedicarePlus
10 organization shall, for each MedicarePlus plan it op-
11 erates, have an agreement with an independent qual-
12 ity review and improvement organization approved
13 by the Secretary.

14 “(4) *EXCEPTION FOR UNRESTRICTED FEE-FOR-*
15 *SERVICE PLANS.*—Paragraphs (1) and (3) and sub-
16 section (h)(2) (relating to maintaining medical
17 records) shall not apply in the case of a MedicarePlus
18 organization in relation to a MedicarePlus unre-
19 stricted fee-for-service plan.

20 “(5) *TREATMENT OF ACCREDITATION.*—The Sec-
21 retary shall provide that a MedicarePlus organization
22 is deemed to meet the requirements of paragraphs (1)
23 through (3) of this subsection and subsection (h) (re-
24 lating to confidentiality and accuracy of medical
25 records) if the organization is accredited (and peri-

1 *odically reaccredited) by a private organization under*
2 *a process that the Secretary has determined assures*
3 *that the organization meets standards that are no less*
4 *stringent than the standards established under section*
5 *1856 to carry out this subsection and such subsection.*

6 *“(f) COVERAGE DETERMINATIONS.—*

7 *“(1) DECISIONS ON NONEMERGENCY CARE.—A*
8 *MedicarePlus organization shall make determinations*
9 *regarding authorization requests for nonemergency*
10 *care on a timely basis, depending on the urgency of*
11 *the situation.*

12 *“(2) APPEALS.—*

13 *“(A) IN GENERAL.—Appeals from a deter-*
14 *mination of an organization denying coverage*
15 *shall be decided within 30 days of the date of re-*
16 *ceipt of medical information, but not later than*
17 *60 days after the date of the decision.*

18 *“(B) PHYSICIAN DECISION ON CERTAIN AP-*
19 *PEALS.—Appeal decisions relating to a deter-*
20 *mination to deny coverage based on a lack of*
21 *medical necessity shall be made only by a physi-*
22 *cian.*

23 *“(C) EMERGENCY CASES.—Appeals from*
24 *such a determination involving a life-threatening*

1 *or emergency situation shall be decided on an ex-*
2 *pedited asis.*

3 “(g) *GRIEVANCES AND APPEALS.—*

4 “(1) *GRIEVANCE MECHANISM.—Each*
5 *MedicarePlus organization must provide meaningful*
6 *procedures for hearing and resolving grievances be-*
7 *tween the organization (including any entity or indi-*
8 *vidual through which the organization provides health*
9 *care services) and enrollees with MedicarePlus plans*
10 *of the organization under this part.*

11 “(2) *APPEALS.—An enrollee with a*
12 *MedicarePlus plan of a MedicarePlus organization*
13 *under this part who is dissatisfied by reason of the*
14 *enrollee’s failure to receive any health service to which*
15 *the enrollee believes the enrollee is entitled and at no*
16 *greater charge than the enrollee believes the enrollee is*
17 *required to pay is entitled, if the amount in con-*
18 *troversy is \$100 or more, to a hearing before the Sec-*
19 *retary to the same extent as is provided in section*
20 *205(b), and in any such hearing the Secretary shall*
21 *make the organization a party. If the amount in con-*
22 *troversy is \$1,000 or more, the individual or organi-*
23 *zation shall, upon notifying the other party, be enti-*
24 *tled to judicial review of the Secretary’s final decision*
25 *as provided in section 205(g), and both the individual*

1 *and the organization shall be entitled to be parties to*
2 *that judicial review. In applying sections 205(b) and*
3 *205(g) as provided in this subparagraph, and in ap-*
4 *plying section 205(l) thereto, any reference therein to*
5 *the Commissioner of Social Security or the Social Se-*
6 *curity Administration shall be considered a reference*
7 *to the Secretary or the Department of Health and*
8 *Human Services, respectively.*

9 “(3) *INDEPENDENT REVIEW OF CERTAIN COV-*
10 *ERAGE DENIALS.—The Secretary shall contract with*
11 *an independent, outside entity to review and resolve*
12 *appeals of denials of coverage related to urgent or*
13 *emergency services with respect to MedicarePlus*
14 *plans.*

15 “(4) *COORDINATION WITH SECRETARY OF*
16 *LABOR.—The Secretary shall consult with the Sec-*
17 *retary of Labor so as to ensure that the requirements*
18 *of this subsection, as they apply in the case of griev-*
19 *ances referred to in paragraph (1) to which section*
20 *503 of the Employee Retirement Income Security Act*
21 *of 1974 applies, are applied in a manner consistent*
22 *with the requirements of such section 503, so long as*
23 *such requirements provide at least as much protection*
24 *for beneficiaries as would apply if this paragraph did*
25 *not apply.*

1 “(h) *CONFIDENTIALITY AND ACCURACY OF ENROLLEE*
2 *RECORDS.*—*Each MedicarePlus organization shall establish*
3 *procedures—*

4 “(1) *to safeguard the privacy of individually*
5 *identifiable enrollee information, and*

6 “(2) *to maintain accurate and timely medical*
7 *records for enrollees.*

8 “(i) *INFORMATION ON ADVANCE DIRECTIVES.*—*Each*
9 *MedicarePlus organization shall meet the requirement of*
10 *section 1866(f) (relating to maintaining written policies*
11 *and procedures respecting advance directives).*

12 “(j) *RULES REGARDING PHYSICIAN PARTICIPATION.*—

13 “(1) *PROCEDURES.*—*Each MedicarePlus organi-*
14 *zation shall establish reasonable procedures relating to*
15 *the participation (under an agreement etween a phy-*
16 *sician and the organization) of physicians under*
17 *MedicarePlus plans offered by the organization under*
18 *this part. Such procedures shall include—*

19 “(A) *providing notice of the rules regarding*
20 *participation,*

21 “(B) *providing written notice of participa-*
22 *tion decisions that are adverse to physicians,*
23 *and*

24 “(C) *providing a process within the organi-*
25 *zation for appealing adverse decisions, including*

1 *the presentation of information and views of the*
2 *physician regarding such decision.*

3 “(2) *CONSULTATION IN MEDICAL POLICIES.—A*
4 *MedicarePlus organization shall consult with physi-*
5 *cians who have entered into participation agreements*
6 *with the organization regarding the organization’s*
7 *medical policy, quality, and medical management*
8 *procedures.*

9 “(3) *LIMITATIONS ON PHYSICIAN INCENTIVE*
10 *PLANS.—*

11 “(A) *IN GENERAL.—No MedicarePlus orga-*
12 *nization may operate any physician incentive*
13 *plan (as defined in subparagraph (B)) unless the*
14 *following requirements are met:*

15 “(i) *No specific payment is made di-*
16 *rectly or indirectly under the plan to a phy-*
17 *sician or physician group as an inducement*
18 *to reduce or limit medically necessary serv-*
19 *ices provided with respect to a specific indi-*
20 *vidual enrolled with the organization.*

21 “(ii) *If the plan places a physician or*
22 *physician group at substantial financial*
23 *risk (as determined by the Secretary) for*
24 *services not provided by the physician or*
25 *physician group, the organization—*

1 “(I) provides stop-loss protection
2 for the physician or group that is ade-
3 quate and appropriate, based on stand-
4 ards developed by the Secretary that
5 take into account the number of physi-
6 cians placed at such substantial finan-
7 cial risk in the group or under the
8 plan and the number of individuals
9 enrolled with the organization who re-
10 ceive services from the physician or the
11 physician group, and

12 “(II) conducts periodic surveys of
13 both individuals enrolled and individ-
14 uals previously enrolled with the orga-
15 nization to determine the degree of ac-
16 cess of such individuals to services pro-
17 vided by the organization and satisfac-
18 tion with the quality of such services.

19 “(iii) The organization provides the
20 Secretary with descriptive information re-
21 garding the plan, sufficient to permit the
22 Secretary to determine whether the plan is
23 in compliance with the requirements of this
24 subparagraph.

1 “(B) *PHYSICIAN INCENTIVE PLAN DE-*
2 *FINED.*—*In this paragraph, the term ‘physician*
3 *incentive plan’ means any compensation ar-*
4 *rangement between a MedicarePlus organization*
5 *and a physician or physician group that may*
6 *directly or indirectly have the effect of reducing*
7 *or limiting services provided with respect to in-*
8 *dividuals enrolled with the organization under*
9 *this part.*

10 “(4) *LIMITATION ON PROVIDER INDEMNIFICA-*
11 *TION.*—*A MedicarePlus organization may not provide*
12 *(directly or indirectly) for a provider (or group of*
13 *providers) to indemnify the organization against any*
14 *liability resulting from a civil action brought by or*
15 *on behalf of an enrollee under this part for any dam-*
16 *age caused to an enrollee with a MedicarePlus plan*
17 *of the organization by the organization’s denial of*
18 *medically necessary care.*

19 “(5) *EXCEPTION FOR UNRESTRICTED FEE-FOR-*
20 *SERVICE PLANS.*—*The previous provisions of this sub-*
21 *section shall not apply in the case of a MedicarePlus*
22 *organization in relation to a MedicarePlus unre-*
23 *stricted fee-for-service plan.*

1 “ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR
2 MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPON-
3 SORED ORGANIZATIONS

4 “SEC. 1853. (a) ORGANIZED AND LICENSED UNDER
5 STATE LAW.—

6 “(1) IN GENERAL.—A MedicarePlus organization
7 shall be organized and licensed under State law as a
8 risk-bearing entity eligible to offer health insurance or
9 health benefits coverage in each State in which it of-
10 fers a MedicarePlus plan.

11 “(2) EXCEPTION FOR CERTAIN UNION SPONSORS
12 AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall
13 not apply to a MedicarePlus organization that is a
14 union sponsor or Taft-Hartley sponsor.

15 “(3) EXCEPTION FOR QUALIFIED ASSOCIATIONS
16 SPONSOR.—Paragraph (1) shall not apply to a
17 MedicarePlus organization that is a qualified associa-
18 tion sponsor.

19 “(4) SPECIAL RULES FOR PROVIDER-SPONSORED
20 ORGANIZATIONS.—

21 “(A) IN GENERAL.—A provider-sponsored
22 organization that seeks to offer a MedicarePlus
23 plan in a State may apply for a waiver of the
24 requirement of paragraph (1) for that organiza-
25 tion operating in that State.

1 “(B) STANDARD.—The Secretary shall act
2 on such an application within 60 days after the
3 date it is filed and shall grant such a waiver for
4 an organization with respect to a State if the
5 Secretary determines that—

6 “(i) the State has failed to complete ac-
7 tion on a licensing application of the orga-
8 nization within 90 days of the date of the
9 State’s receipt of the completed application;
10 or

11 “(ii) the State denied such a licensing
12 application and—

13 “(I) the State’s licensing stand-
14 ards or review process imposes any re-
15 quirements, procedures, or other stand-
16 ards to such organizations that are not
17 generally applicable to any other enti-
18 ties engaged in substantially similar
19 business,

20 “(II) such standards or review
21 process applies solvency standards for
22 the organization and the State is not
23 approved under subsection (e)(2)(B), or

24 “(III) the State has used solvency
25 standards to deny or discriminate

1 *against such an organization that has*
2 *been provided a certificate of solvency*
3 *under subsection (e)(2).*

4 *No period before the date of the enactment of this*
5 *section shall be included in determining the 90-*
6 *day period described in clause (i).*

7 “(C) *TREATMENT OF WAIVER.—In the case*
8 *of a waiver granted under this paragraph for a*
9 *provider-sponsored organization—*

10 “(i) *the waiver shall be effective for a*
11 *36-month period, except it may be renewed*
12 *based on a subsequent application filed dur-*
13 *ing the last 6 months of such period,*

14 “(ii) *the waiver is conditioned upon*
15 *the pendency of the licensure application*
16 *during the period the waiver is in effect,*
17 *and*

18 “(iii) *any provisions of State law*
19 *which relate to the licensing of the organiza-*
20 *tion and which prohibit the organization*
21 *from providing coverage pursuant to a con-*
22 *tract under this part shall be superseded.*

23 *Nothing in this subparagraph shall be construed*
24 *as limiting the number of times such a waiver*
25 *may be renewed.*

1 “(D) *CONSTRUCTION.*—*Nothing in this*
2 *paragraph shall be construed as affecting the op-*
3 *eration of section 514 of the Employee Retire-*
4 *ment Income Security Act of 1974.*

5 “(5) *EXCEPTION IF REQUIRED TO OFFER MORE*
6 *THAN MEDICAREPLUS PLANS.*—*Paragraph (1) shall*
7 *not apply to a MedicarePlus organization in a State*
8 *if the State requires the organization, as a condition*
9 *of licensure, to offer any product or plan other than*
10 *a MedicarePlus plan.*

11 “(6) *EXCEPTION IN CASES OF UNREASONABLE*
12 *BARRIERS TO MARKET ENTRY.*—

13 “(A) *IN GENERAL.*—*A MedicarePlus organi-*
14 *zation that seeks to offer a MedicarePlus plan in*
15 *a State may apply for a waiver of the require-*
16 *ment of paragraph (1) for that organization op-*
17 *erating in that State.*

18 “(B) *STANDARD.*—*The Secretary shall act*
19 *on such an application within 60 days after the*
20 *date it is filed and shall grant such a waiver for*
21 *an organization with respect to a State if the*
22 *Secretary determines that—*

23 “(i) *the State (I) denied such a licens-*
24 *ing application or (II) unreasonably de-*
25 *layed in acting upon the application, and*

1 “(ii) the State’s licensing standards or
2 review process imposes unreasonable bar-
3 riers to market entry, including through the
4 imposition of any requirements, procedures,
5 or other standards to such organizations
6 that are not generally applicable to any
7 other entities engaged in substantially simi-
8 lar business.

9 “(C) APPLICATION OF CERTAIN RULES.—
10 The provisions of subparagraphs (C) and (D) of
11 paragraph (4) shall apply to this paragraph in
12 the same manner as they apply under such
13 paragraph, except that for this purpose any ref-
14 erence in paragraph (4)(C)(i) to 36-month pe-
15 riod is deemed a reference to a 24-month period.

16 “(b) PREPAID PAYMENT.—A MedicarePlus organiza-
17 tion shall be compensated (except for deductibles, coinsur-
18 ance, and copayments) for the provision of health care serv-
19 ices to enrolled members by a payment which is paid on
20 a periodic basis without regard to the date the health care
21 services are provided and which is fixed without regard to
22 the frequency, extent, or kind of health care service actually
23 provided to a member.

24 “(c) ASSUMPTION OF FULL FINANCIAL RISK.—The
25 MedicarePlus organization shall assume full financial risk

1 *on a prospective basis for the provision of the health care*
2 *services (except, at the election of the organization, hospice*
3 *care) for which benefits are required to be provided under*
4 *section 1852(a)(1), except that the organization—*

5 “(1) *may obtain insurance or make other ar-*
6 *rangements for the cost of providing to any enrolled*
7 *member such services the aggregate value of which ex-*
8 *ceeds \$5,000 in any year,*

9 “(2) *may obtain insurance or make other ar-*
10 *rangements for the cost of such services provided to its*
11 *enrolled members other than through the organization*
12 *because medical necessity required their provision be-*
13 *fore they could be secured through the organization,*

14 “(3) *may obtain insurance or make other ar-*
15 *rangements for not more than 90 percent of the*
16 *amount by which its costs for any of its fiscal years*
17 *exceed 115 percent of its income for such fiscal year,*
18 *and*

19 “(4) *may make arrangements with physicians or*
20 *other health professionals, health care institutions, or*
21 *any combination of such individuals or institutions*
22 *to assume all or part of the financial risk on a pro-*
23 *spective basis for the provision of basic health services*
24 *by the physicians or other health professionals or*
25 *through the institutions.*

1 *In the case of a MedicarePlus organization that is a union*
2 *sponsor, Taft-Hartley sponsor, or a qualified association*
3 *sponsor, this subsection shall not apply with respect to*
4 *MedicarePlus plans offered by such organization and issued*
5 *by an organization to which subsection (b)(1) applies or*
6 *by a provider-sponsored organization (as defined in section*
7 *1854(a)).*

8 *“(d) PROVISION AGAINST RISK OF INSOLVENCY.—*

9 *“(1) IN GENERAL.—Each MedicarePlus organi-*
10 *zation shall meet standards under section 1856 relat-*
11 *ing to the financial solvency and capital adequacy of*
12 *the organization and including provision to prevent*
13 *enrollees from being held liable to any person or en-*
14 *tity for the plan sponsor’s debts in the event of the*
15 *plan sponsor’s insolvency. Such standards shall take*
16 *into account the nature and type of MedicarePlus*
17 *plans offered by the organization.*

18 *“(2) TREATMENT OF PROVIDER-SPONSORED OR-*
19 *GANIZATIONS.—*

20 *“(A) IN GENERAL.—In the case of an entity*
21 *that is a provider-sponsored organization that is*
22 *operating—*

23 *“(i) in a State approved under sub-*
24 *paragraph (B), the organization shall meet*

1 *the standards described in paragraph (1)*
2 *through licensure by the State, or*

3 “(ii) *in a State that is not so ap-*
4 *proved, the organization shall meet the*
5 *standards described in paragraph (1)*
6 *through application and certification licen-*
7 *sure by the Secretary.*

8 “(B) *APPROVED STATES.—*

9 “(i) *APPLICATION PROCESS.—For pur-*
10 *poses of subparagraph (A), the Secretary*
11 *shall establish a process under which a*
12 *State may apply to the Secretary for a de-*
13 *termination that the State is applying to*
14 *provider-sponsored organizations, through*
15 *its process for licensing provider-sponsored*
16 *organizations, solvency standards that are*
17 *identical with the solvency standards estab-*
18 *lished under section 1856(c) for such orga-*
19 *nizations.*

20 “(ii) *DETERMINATION.—The Secretary*
21 *shall approve such a State if the Secretary*
22 *determines that the State is so applying*
23 *such standards. If the Secretary denies such*
24 *an approval, the State may reapply for*
25 *such a determination.*

1 “(iii) *PUBLICATION.*—*The Secretary*
2 *shall publish a list of States that are ap-*
3 *proved under this subparagraph.*

4 “(3) *TREATMENT OF UNION AND TAFT-HARTLEY*
5 *SPONSORS.*—*An entity that is a union sponsor or a*
6 *Taft-Hartley sponsor is deemed to meet the require-*
7 *ment of paragraph (1).*

8 “(4) *TREATMENT OF CERTAIN QUALIFIED ASSO-*
9 *CIATION SPONSORS.*—*An entity that is a qualified as-*
10 *sociation sponsor is deemed to meet the requirement*
11 *of paragraph (1) with respect to MedicarePlus plans*
12 *offered by such association and issued by an organi-*
13 *zation to which subsection (b)(1) applies or by a pro-*
14 *vider-sponsored organization.*

15 “(e) *PROVIDER-SPONSORED ORGANIZATION DE-*
16 *FINED.*—

17 “(1) *IN GENERAL.*—*In this part, the term ‘pro-*
18 *vider-sponsored organization’ means a public or pri-*
19 *vate entity—*

20 “(A) *that is established or organized by a*
21 *health care provider, or group of affiliated health*
22 *care providers,*

23 “(B) *that provides a substantial proportion*
24 *(as defined by the Secretary) of the health care*
25 *items and services under the contract under this*

1 *part directly through the provider or affiliated*
2 *group of providers, and*

3 “(C) *with respect to which those affiliated*
4 *providers that share, directly or indirectly, sub-*
5 *stantial financial risk with respect to the provi-*
6 *sion of such items and services have at least a*
7 *majority financial interest in the entity.*

8 “(2) *SUBSTANTIAL PROPORTION.—In defining*
9 *what is a ‘substantial proportion’ for purposes of*
10 *paragraph (1)(A), the Secretary—*

11 “(A) *shall take into account the need for*
12 *such an organization to assume responsibility for*
13 *a substantial proportion of services in order to*
14 *assure financial stability and the practical dif-*
15 *iculties in such an organization integrating a*
16 *very wide range of service providers; and*

17 “(B) *may vary such proportion based upon*
18 *relevant differences among organizations, such as*
19 *their location in an urban or rural area.*

20 “(3) *AFFILIATION.—For purposes of this sub-*
21 *section, a provider is ‘affiliated’ with another pro-*
22 *vider if, through contract, ownership, or otherwise—*

23 “(A) *one provider, directly or indirectly,*
24 *controls, is controlled by, or is under common*
25 *control with the other,*

1 “(B) both providers are part of a controlled
2 group of corporations under section 1563 of the
3 Internal Revenue Code of 1986, or

4 “(C) both providers are part of an affiliated
5 service group under section 414 of such Code.

6 “(4) CONTROL.—For purposes of paragraph (3),
7 control is presumed to exist if one party, directly or
8 indirectly, owns, controls, or holds the power to vote,
9 or proxies for, not less than 51 percent of the voting
10 rights or governance rights of another.

11 “(5) HEALTH CARE PROVIDER DEFINED.—In
12 this subsection and subsection (f), the term ‘health
13 care provider’ means—

14 “(A) any individual who is engaged in the
15 delivery of health care services in a State and
16 who is required by State law or regulation to be
17 licensed or certified by the State to engage in the
18 delivery of such services in the State, and

19 “(B) any entity that is engaged in the de-
20 livery of health care services in a State and that,
21 if it is required by State law or regulation to be
22 licensed or certified by the State to engage in the
23 delivery of such services in the State, is so li-
24 censed.

1 “(6) *REGULATIONS.*—*The Secretary shall issue*
2 *regulations to carry out this subsection.*

3 “(f) *ORGANIZATIONS TREATED AS MEDICAREPLUS*
4 *ORGANIZATIONS DURING TRANSITION.*—*Any of the follow-*
5 *ing organizations shall be considered to qualify as a*
6 *MedicarePlus organization for contract years beginning be-*
7 *fore January 1, 1998:*

8 “(1) *HEALTH MAINTENANCE ORGANIZATIONS.*—
9 *An organization that is organized under the laws of*
10 *any State and that is a qualified health maintenance*
11 *organization (as defined in section 1310(d) of the*
12 *Public Health Service Act), an organization recog-*
13 *nized under State law as a health maintenance orga-*
14 *nization, or a similar organization regulated under*
15 *State law for solvency in the same manner and to the*
16 *same extent as such a health maintenance organiza-*
17 *tion.*

18 “(2) *LICENSED INSURERS.*—*An organization*
19 *that is organized under the laws of any State and—*

20 “(A) *is licensed by a State agency as an in-*
21 *surer for the offering of health benefit coverage,*

22 *or*

23 “(B) *is licensed by a State agency as a*
24 *service benefit plan,*

1 *but only for individuals residing in an area in which*
2 *the organization is licensed to offer health insurance*
3 *coverage.*

4 “(3) *CURRENT RISK-CONTRACTORS.*—*An organi-*
5 *zation that is an eligible organization (as defined in*
6 *section 1876(b)) and that has a risk-sharing contract*
7 *in effect under section 1876 as of the date of the en-*
8 *actment of this section.*

9 “*PAYMENTS TO MEDICAREPLUS ORGANIZATIONS*

10 “*SEC. 1854. (a) PAYMENTS TO ORGANIZATIONS.*—

11 “(1) *MONTHLY PAYMENTS.*—

12 “(A) *IN GENERAL.*—*Under a contract under*
13 *section 1857 and subject to subsections (e) and*
14 *(f), the Secretary shall make monthly payments*
15 *under this section in advance to each*
16 *MedicarePlus organization, with respect to cov-*
17 *erage of an individual under this part in a*
18 *MedicarePlus payment area for a month, in an*
19 *amount equal to $\frac{1}{12}$ of the annual MedicarePlus*
20 *capitation rate (as calculated under subsection*
21 *(c)) with respect to that individual for that area,*
22 *adjusted for such risk factors as age, disability*
23 *status, gender, institutional status, and such*
24 *other factors as the Secretary determines to be*
25 *appropriate, so as to ensure actuarial equiva-*
26 *lence. The Secretary may add to, modify, or sub-*

1 *stitute for such factors, if such changes will im-*
2 *prove the determination of actuarial equivalence.*

3 “(B) *SPECIAL RULE FOR END-STAGE RENAL*
4 *DISEASE.—The Secretary shall establish a sepa-*
5 *rate rate of payment to a MedicarePlus organi-*
6 *zation with respect to any individual determined*
7 *to have end-stage renal disease and enrolled in*
8 *a MedicarePlus plan of the organization. Such*
9 *rate of payment shall be actuarially equivalent*
10 *to rates paid to other enrollees in the*
11 *MedicarePlus payment area (or such other area*
12 *as specified by the Secretary).*

13 “(2) *ADJUSTMENT TO REFLECT NUMBER OF EN-*
14 *ROLLEES.—*

15 “(A) *IN GENERAL.—The amount of pay-*
16 *ment under this subsection may be retroactively*
17 *adjusted to take into account any difference be-*
18 *tween the actual number of individuals enrolled*
19 *with an organization under this part and the*
20 *number of such individuals estimated to be so*
21 *enrolled in determining the amount of the ad-*
22 *vance payment.*

23 “(B) *SPECIAL RULE FOR CERTAIN ENROLL-*
24 *EES.—*

1 “(i) *IN GENERAL.*—Subject to clause
2 (ii), the Secretary may make retroactive ad-
3 justments under subparagraph (A) to take
4 into account individuals enrolled during the
5 period beginning on the date on which the
6 individual enrolls with a MedicarePlus or-
7 ganization under a plan operated, spon-
8 sored, or contributed to by the individual’s
9 employer or former employer (or the em-
10 ployer or former employer of the individ-
11 ual’s spouse) and ending on the date on
12 which the individual is enrolled in the orga-
13 nization under this part, except that for
14 purposes of making such retroactive adjust-
15 ments under this subparagraph, such period
16 may not exceed 90 days.

17 “(ii) *EXCEPTION.*—No adjustment may
18 be made under clause (i) with respect to
19 any individual who does not certify that the
20 organization provided the individual with
21 the disclosure statement described in section
22 1852(c) at the time the individual enrolled
23 with the organization.

24 “(b) *ANNUAL ANNOUNCEMENT OF PAYMENT RATES.*—

1 “(1) *ANNUAL ANNOUNCEMENT.*—*The Secretary*
2 *shall annually determine, and shall announce (in a*
3 *manner intended to provide notice to interested par-*
4 *ties) not later than August 1 before the calendar year*
5 *concerned—*

6 “(A) *the annual MedicarePlus capitation*
7 *rate for each MedicarePlus payment area for the*
8 *year, and*

9 “(B) *the risk and other factors to be used in*
10 *adjusting such rates under subsection (a)(1)(A)*
11 *for payments for months in that year.*

12 “(2) *ADVANCE NOTICE OF METHODOLOGICAL*
13 *CHANGES.*—*At least 45 days before making the an-*
14 *ouncement under paragraph (2) for a year, the Sec-*
15 *retary shall provide for notice to MedicarePlus orga-*
16 *nizations of proposed changes to be made in the meth-*
17 *odology from the methodology and assumptions used*
18 *in the previous announcement and shall provide such*
19 *organizations an opportunity to comment on such*
20 *proposed changes.*

21 “(3) *EXPLANATION OF ASSUMPTIONS.*—*In each*
22 *announcement made under paragraph (1) for a year,*
23 *the Secretary shall include an explanation of the as-*
24 *sumptions and changes in methodology used in the*
25 *announcement in sufficient detail so that*

1 *MedicarePlus organizations can compute monthly ad-*
2 *justed MedicarePlus capitation rates for individuals*
3 *in each MedicarePlus payment area which is in whole*
4 *or in part within the service area of such an organi-*
5 *zation.*

6 “(c) *CALCULATION OF ANNUAL MEDICAREPLUS CAPI-*
7 *TATION RATES.—*

8 “(1) *IN GENERAL.—For purposes of this part,*
9 *the annual MedicarePlus capitation rate, for a*
10 *MedicarePlus payment area for a contract year con-*
11 *sisting of a calendar year, is equal to the greatest of*
12 *the following:*

13 “(A) *BLENDED CAPITATION RATE.—The*
14 *sum of—*

15 “(i) *area-specific percentage for the*
16 *year (as specified under paragraph (2) for*
17 *the year) of the annual area-specific*
18 *MedicarePlus capitation rate for the year*
19 *for the MedicarePlus payment area, as de-*
20 *termined under paragraph (3), and*

21 “(ii) *national percentage (as specified*
22 *under paragraph (2) for the year) of the*
23 *input-price-adjusted annual national*
24 *MedicarePlus capitation rate for the year,*
25 *as determined under paragraph (4),*

1 *multiplied by a budget neutrality adjustment*
2 *factor determined under paragraph (5).*

3 “(B) *MINIMUM AMOUNT.—*

4 “(i) *For 1996, \$300.*

5 “(ii) *For 1997, \$350.*

6 “(iii) *For a succeeding year, is the*
7 *minimum amount specified in this sub-*
8 *paragraph for the preceding year increased*
9 *by national average per capita growth per-*
10 *centage, specified under paragraph (6) for*
11 *that succeeding year.*

12 “(C) *MINIMUM INCREASE OF 2 PERCENT*
13 *OVER PREVIOUS YEAR’S RATE.—*

14 “(i) *For 1996, 102 percent of the an-*
15 *nuual per capita rate of payment for 1995*
16 *determined under section 1876(a)(1)(C) for*
17 *the MedicarePlus payment area.*

18 “(ii) *For a subsequent year, 102 per-*
19 *cent of the annual MedicarePlus capitation*
20 *rate under this subsection for the area for*
21 *the previous year.*

22 “(2) *AREA-SPECIFIC AND NATIONAL PERCENT-*
23 *AGES.—For purposes of paragraph (1)(A)—*

1 “(A) for 1996 and 1997, the ‘area-specific
2 percentage’ is 90 percent and the ‘national per-
3 centage’ is 10 percent,

4 “(B) for 1998, the ‘area-specific percentage’
5 is 85 percent and the ‘national percentage’ is 15
6 percent,

7 “(C) for 1999, the ‘area-specific percentage’
8 is 80 percent and the ‘national percentage’ is 20
9 percent,

10 “(D) for 2000, the ‘area-specific percentage’
11 is 75 percent and the ‘national percentage’ is 25
12 percent, and

13 “(E) for a year after 2000, the ‘area-specific
14 percentage’ is 70 percent and the ‘national per-
15 centage’ is 30 percent.

16 “(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS
17 CAPITATION RATE.—For purposes of paragraph
18 (1)(A), the annual area-specific MedicarePlus capita-
19 tion rate for a MedicarePlus payment area—

20 “(A) for 1996 is the annual per capita rate
21 of payment for 1995 determined under section
22 1876(a)(1)(C) for the MedicarePlus payment
23 area, increased by the national average per cap-
24 ita growth percentage for 1996 (as defined in
25 paragraph (6)); or

1 “(B) for a subsequent year is the annual
2 area-specific MedicarePlus capitation rate for
3 the previous year determined under this para-
4 graph for the MedicarePlus payment area, in-
5 creased by the national average per capita
6 growth percentage for such subsequent year.

7 “(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL
8 MEDICAREPLUS CAPITATION RATE.—

9 “(A) IN GENERAL.—For purposes of para-
10 graph (1)(A), the input-price-adjusted annual
11 national MedicarePlus capitation rate for a
12 MedicarePlus payment area for a year is equal
13 to the sum, for all the types of medicare services
14 (as classified by the Secretary), of the plan (for
15 each such type) of—

16 “(i) the national standardized annual
17 MedicarePlus capitation rate (determined
18 under subparagraph (B)) for the year,

19 “(ii) the proportion of such rate for the
20 year which is attributable to such type of
21 services, and

22 “(iii) an index that reflects (for that
23 year and that type of services) the relative
24 input price of such services in the area com-

1 *pared to the national average input price of*
2 *such services.*

3 *In applying clause (iii), the Secretary shall, sub-*
4 *ject to subparagraph (C), apply those indices*
5 *under this title that are used in applying (or up-*
6 *dating) national payment rates for specific areas*
7 *and localities.*

8 *“(B) NATIONAL STANDARDIZED ANNUAL*
9 *MEDICAREPLUS CAPITATION RATE.—In subpara-*
10 *graph (A)(i), the ‘national standardized annual*
11 *MedicarePlus capitation rate’ for a year is equal*
12 *to—*

13 *“(i) the sum (for all MedicarePlus pay-*
14 *ment areas) of the product of (I) the annual*
15 *area-specific MedicarePlus capitation rate*
16 *for that year for the area under paragraph*
17 *(3), and (II) the average number of medi-*
18 *care beneficiaries residing in that area in*
19 *the year; divided by*

20 *“(ii) the total average number of medi-*
21 *care beneficiaries residing in all the*
22 *MedicarePlus payment areas for that year.*

23 *“(C) SPECIAL RULES FOR 1996.—In apply-*
24 *ing this paragraph for 1996—*

1 “(i) medicare services shall be divided
2 into 2 types of services: part A services and
3 part B services;

4 “(ii) the proportions described in sub-
5 paragraph (A)(ii) for such types of services
6 shall be—

7 “(I) for part A services, the ratio
8 (expressed as a percentage) of the aver-
9 age annual per capita rate of payment
10 for the area for part A for 1995 to the
11 total average annual per capita rate of
12 payment for the area for parts A and
13 B for 1995, and

14 “(II) for part B services, 100 per-
15 cent minus the ratio described in
16 subclause (I);

17 “(iii) for the part A services, 70 per-
18 cent of payments attributable to such serv-
19 ices shall be adjusted by the index used
20 under section 1886(d)(3)(E) to adjust pay-
21 ment rates for relative hospital wage levels
22 for hospitals located in the payment area
23 involved;

24 “(iv) for part B services—

1 “(I) 66 percent of payments at-
2 tributable to such services shall be ad-
3 justed by the index of the geographic
4 area factors under section 1848(e) used
5 to adjust payment rates for physicians’
6 services furnished in the payment area,
7 and

8 “(II) of the remaining 34 percent
9 of the amount of such payments, 70
10 percent shall be adjusted by the index
11 described in clause (iii);

12 “(v) the index values shall be computed
13 based only on the beneficiary population
14 who are 65 years of age or older who are
15 not determined to have end stage renal dis-
16 ease.

17 *The Secretary may continue to apply the rules*
18 *described in this subparagraph (or similar rules)*
19 *for 1997.*

20 “(5) *BUDGET NEUTRALITY ADJUSTMENT FAC-*
21 *TOR.—For each year, the Secretary shall compute a*
22 *budget neutrality adjustment factor so that the aggre-*
23 *gate of the payments under this part shall not exceed*
24 *the aggregate payments that would have been made*
25 *under this part if the area-specific percentage for the*

1 year had been 100 percent and the national percent-
2 age had been 0 percent.

3 “(6) NATIONAL AVERAGE PER CAPITA GROWTH
4 PERCENTAGE DEFINED.—In this part, the ‘national
5 average per capita growth percentage’ for—

6 “(A) 1996 is 8.0 percent,

7 “(B) 1997 is 3.8 percent,

8 “(C) 1998 is 4.6 percent,

9 “(D) 1999 is 4.3 percent,

10 “(E) 2000 is 3.8 percent,

11 “(F) 2001 is 5.5 percent,

12 “(G) 2002 is 5.6 percent, and

13 “(H) each subsequent year is 5.0 percent.

14 “(d) MEDICAREPLUS PAYMENT AREA DEFINED.—

15 “(1) IN GENERAL.—In this part, except as pro-
16 vided in paragraph (3), the term ‘MedicarePlus pay-
17 ment area’ means a county, or equivalent area speci-
18 fied by the Secretary.

19 “(2) RULE FOR ESRD BENEFICIARIES.—In the
20 case of individuals who are determined to have end
21 stage renal disease, the MedicarePlus payment area
22 shall be each State.

23 “(3) GEOGRAPHIC ADJUSTMENT.—

24 “(A) IN GENERAL.—Upon request of a State
25 for a contract year (beginning after 1996) made

1 *at least 7 months before the beginning of the*
2 *year, the Secretary shall make a geographic ad-*
3 *justment to a MedicarePlus payment areas in*
4 *the State otherwise determined under paragraph*
5 *(1)—*

6 *“(i) to a single statewide MedicarePlus*
7 *payment area,*

8 *“(ii) to the metropolitan based system*
9 *described in subparagraph (C), or*

10 *“(iii) to consolidating into a single*
11 *MedicarePlus payment area noncontinuous*
12 *counties (or equivalent areas described in*
13 *paragraph (1)) within a State.*

14 *Such adjustment shall be effective for payments*
15 *for months beginning with January of the year*
16 *following the year in which the request is re-*
17 *ceived.*

18 *“(B) BUDGET NEUTRALITY ADJUSTMENT.—*

19 *In the case of a State requesting an adjustment*
20 *under this paragraph, the Secretary shall adjust*
21 *the payment rates otherwise established under*
22 *this paragraph for MedicarePlus payment areas*
23 *in the State in a manner so that the aggregate*
24 *of the payments under this section in the State*
25 *shall not exceed the aggregate payments that*

1 *would have been made under this section for*
2 *MedicarePlus payment areas in the State in the*
3 *absence of the adjustment under this paragraph.*

4 “(C) *METROPOLITAN BASED SYSTEM.*—*The*
5 *metropolitan based system described in this sub-*
6 *paragraph is one in which—*

7 “(i) *all the portions of each metropoli-*
8 *tan statistical area in the State or in the*
9 *case of a consolidated metropolitan statis-*
10 *tical area, all of the portions of each pri-*
11 *mary metropolitan statistical area within*
12 *the consolidated area within the State, are*
13 *treated as a single MedicarePlus payment*
14 *area, and*

15 “(ii) *all areas in the State that do not*
16 *fall within a metropolitan statistical area*
17 *are treated as a single MedicarePlus pay-*
18 *ment area.*

19 “(D) *AREAS.*—*In subparagraph (C), the*
20 *terms ‘metropolitan statistical area’, ‘consoli-*
21 *dated metropolitan statistical area’, and ‘pri-*
22 *mary metropolitan statistical area’ mean any*
23 *area designated as such by the Secretary of Com-*
24 *merce.*

1 “(e) *SPECIAL RULES FOR INDIVIDUALS ELECTING*
2 *HIGH DEDUCTIBLE PLANS.*—

3 “(1) *IN GENERAL.*—*In the case of an individual*
4 *who has elected a high deductible plan, notwithstand-*
5 *ing the preceding provisions of this section—*

6 “(A) *the amount of the monthly payment to*
7 *the MedicarePlus organization offering the high*
8 *deductible plan shall not exceed the monthly pre-*
9 *mium for the plan, and*

10 “(B) *subject to paragraph (2), the difference*
11 *between the amount of payment that would oth-*
12 *erwise be made and the amount of payment to*
13 *such organization shall be made directly into a*
14 *High Deductible MedicarePlus MSA established*
15 *(and, if applicable, designated) by the individual*
16 *under paragraph (2).*

17 “(2) *ESTABLISHMENT AND DESIGNATION OF*
18 *MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS RE-*
19 *QUIREMENT FOR PAYMENT OF CONTRIBUTION.*—*In the*
20 *case of an individual who has elected coverage under*
21 *a high deductible plan, no payment shall be made*
22 *under paragraph (1)(B) on behalf of an individual*
23 *for a month unless the individual—*

24 “(A) *has established before the beginning of*
25 *the month (or by such other deadline as the Sec-*

1 retary may specify) a High Deductible
2 MedicarePlus MSA (as defined in section
3 137(b)(2) of the Internal Revenue Code of 1986),
4 and

5 “(B) if the individual has established more
6 than one High Deductible MedicarePlus MSA,
7 has designated one of such accounts as the indi-
8 vidual’s High Deductible MedicarePlus MSA for
9 purposes of this part.

10 Under rules under this section, such an individual
11 may change the designation of such account under
12 subparagraph (B) for purposes of this part.

13 “(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS
14 ACCOUNT CONTRIBUTION.—In the case of an individ-
15 ual electing a high deductible plan effective beginning
16 with a month in a year, the amount of the contribu-
17 tion to the High Deductible MedicarePlus MSA on be-
18 half of the individual for that month and all succes-
19 sive months in the year shall be deposited during that
20 first month. In the case of a termination of such an
21 election as of a month before the end of a year, the
22 Secretary shall provide for a procedure for the recov-
23 ery of deposits attributable to the remaining months
24 in the year.

1 “(4) *PERMITTING CONTRIBUTIONS INTO*
2 *MEDICAREPLUS MSA.—Effective January 1, 1997, if a*
3 *member of a Federally-qualified health maintenance*
4 *organization certifies that a Rebate MedicarePlus*
5 *MSA (as defined in section 137(c) of the Internal*
6 *Revenue Code of 1986) has been established for the*
7 *benefit of such member, the health maintenance orga-*
8 *nization may reduce the basic health services pay-*
9 *ment otherwise determined under otherwise applicable*
10 *law by requiring the payment of a deductible by the*
11 *member for basic health services.*

12 “(f) *PAYMENTS OF REBATES.—*

13 “(1) *IN GENERAL.—If the amount of the monthly*
14 *premium for a MedicarePlus plan (other than a high*
15 *deductible plan) for an MedicarePlus payment area*
16 *for a year is less than $\frac{1}{12}$ of the annual MedicarePlus*
17 *capitation rate applied under this section 1854 for*
18 *the area and year involved, at the election of an indi-*
19 *vidual enrolled under the plan the Secretary shall ei-*
20 *ther—*

21 “(A) *in the case of an individual who has*
22 *a Rebate MedicarePlus MSA account (as defined*
23 *in section 137(b)(3) of the Internal Revenue Code*
24 *of 1986), to deposit 100 percent of such difference*

1 *in such an account specified by the individual;*
2 *or*

3 “(B)(i) *pay to the MedicarePlus organiza-*
4 *tion on behalf of such individual the monthly*
5 *amount equal to 100 percent of such difference*
6 *up to the amount of the premium amount of*
7 *such individual for supplemental benefits de-*
8 *scribed in section 1895H(b),*

9 “(ii) *pay to such individual an amount*
10 *equal to 75 percent of the remainder of such dif-*
11 *ference, and*

12 “(iii) *deposit any remainder of such dif-*
13 *ference in the Federal Hospital Insurance Trust*
14 *Fund.*

15 “(2) *TIME FOR PAYMENT.—*

16 “(A) *IN GENERAL.—Subject to subpara-*
17 *graph (B), payments and deposits described in*
18 *paragraph (1) shall be made on a monthly basis.*

19 “(B) *CASH REBATES.—A rebate under*
20 *paragraph (1)(B)(ii) shall be paid as of the close*
21 *of the calendar year to which the enrollment ap-*
22 *plied.*

23 “(g) *PAYMENTS FROM TRUST FUND.—The payment to*
24 *a MedicarePlus organization under this section for individ-*
25 *uals enrolled under this part with the organization, and*

1 *payments to a High Deductible or Rebate MedicarePlus*
2 *MSA under subsection (e)(1)(B) or subsection (f), shall be*
3 *made from the Federal Hospital Insurance Trust Fund and*
4 *the Federal Supplementary Medical Insurance Trust Fund*
5 *in such proportion as the Secretary determines reflects the*
6 *relative weight that benefits under part A and under part*
7 *B represents of the actuarial value of the total benefits*
8 *under this title.*

9 “(h) *SPECIAL RULE FOR CERTAIN INPATIENT HOS-*
10 *PITAL STAYS.—In the case of an individual who is receiv-*
11 *ing inpatient hospital services from a subsection (d) hos-*
12 *pital (as defined in section 1886(d)(1)(B)) as of the effective*
13 *date of the individual’s—*

14 “(1) *election under this part of a MedicarePlus*
15 *plan offered by a MedicarePlus organization—*

16 “(A) *payment for such services until the*
17 *date of the individual’s discharge shall be made*
18 *under this title through the MedicarePlus plan or*
19 *the Medicare fee-for-service program option de-*
20 *scribed in section 1851(a)(1)(A) (as the case may*
21 *be) elected before the election with such organiza-*
22 *tion,*

23 “(B) *the elected organization shall not be fi-*
24 *nancially responsible for payment for such serv-*

1 ices until the date after the date of the individ-
2 ual's discharge, and

3 “(C) the organization shall nonetheless be
4 paid the full amount otherwise payable to the or-
5 ganization under this part; or

6 “(2) termination of election with respect to a
7 MedicarePlus organization under this part—

8 “(A) the organization shall be financially
9 responsible for payment for such services after
10 such date and until the date of the individual's
11 discharge,

12 “(B) payment for such services during the
13 stay shall not be made under section 1886(d) or
14 by any succeeding MedicarePlus organization,
15 and

16 “(C) the terminated organization shall not
17 receive any payment with respect to the individ-
18 ual under this part during the period the indi-
19 vidual is not enrolled.

20 “PREMIUMS AND REBATES

21 “SEC. 1855. (a) SUBMISSION AND CHARGING OF PRE-
22 MIUMS.—

23 “(1) IN GENERAL.—Subject to paragraph (3),
24 each MedicarePlus organization shall file with the
25 Secretary each year, in a form and manner and at
26 a time specified by the Secretary—

1 “(A) the amount of the monthly premium
2 for coverage for services under section 1852(a)
3 under each MedicarePlus plan it offers under
4 this part in each MedicarePlus payment area (as
5 defined in section 1854(d)) in which the plan is
6 being offered; and

7 “(B) the enrollment capacity in relation to
8 the plan in each such area.

9 “(2) *TERMINOLOGY.*—In this part—

10 “(A) the term ‘monthly premium’ means,
11 with respect to a MedicarePlus plan offered by a
12 MedicarePlus organization, the monthly pre-
13 mium filed under paragraph (1), not taking into
14 account the amount of any payment made to-
15 ward the premium under section 1854; and

16 “(B) the term ‘net monthly premium’
17 means, with respect to such a plan and an indi-
18 vidual enrolled with the plan, the premium (as
19 defined in subparagraph (A)) for the plan re-
20 duced by the amount of payment made toward
21 such premium under section 1854.

22 “(3) *LIMITATION ON PORTION OF MONTHLY PRE-*
23 *MIUM ATTRIBUTABLE TO REQUIRED COVERAGE.*—In
24 no case may the portion of the monthly premium for
25 a MedicarePlus plan for an area and year attrib-

1 *utable to required services under section 1852(a)(1)*
2 *exceed the adjusted community rate for the plan (as*
3 *defined in subsection (f)(5)).*

4 *“(b) NET MONTHLY PREMIUM.—The amount of the net*
5 *monthly premium charged by a MedicarePlus organization*
6 *for a MedicarePlus plan offered in a MedicarePlus payment*
7 *area to an individual under this part shall be equal to the*
8 *amount (if any) by which—*

9 *“(1) the amount of the monthly premium for the*
10 *plan for the period involved, exceeds*

11 *“(2) $\frac{1}{12}$ of the annual MedicarePlus capitation*
12 *rate applied under section 1854 for the area and year*
13 *involved.*

14 *“(c) UNIFORM PREMIUM.—The monthly premium and*
15 *net monthly premium (including rebates offered) by a*
16 *MedicarePlus organization under this part may not vary*
17 *among individuals who reside in the same MedicarePlus*
18 *payment area.*

19 *“(d) TERMS AND CONDITIONS OF IMPOSING PRE-*
20 *MIUMS.—Each MedicarePlus organization shall permit the*
21 *payment of net monthly premiums on a monthly basis and*
22 *may terminate election of individuals for a MedicarePlus*
23 *plan for failure to make premium payments only in accord-*
24 *ance with section 1851(g)(3)(B)(i).*

1 “(e) *RELATION OF PREMIUMS AND COST-SHARING TO*
2 *BENEFITS.—In no case may the portion of a MedicarePlus*
3 *organization’s monthly premium and the actuarial value*
4 *of its deductibles, coinsurance, and copayments charged for*
5 *(to the extent attributable to the required benefits described*
6 *in section 1852(a)(1) and not counting any amount attrib-*
7 *utable to balance billing) to individuals who are enrolled*
8 *under this part with the organization exceed the actuarial*
9 *value of the coinsurance and deductibles that would be ap-*
10 *plicable on the average to individuals enrolled under this*
11 *part with the organization (or, if the Secretary finds that*
12 *adequate data are not available to determine that actuarial*
13 *value, the actuarial value of the coinsurance and deductibles*
14 *applicable on the average to individuals in the area, in the*
15 *State, or in the United States, eligible to enroll under this*
16 *part with the organization, or other appropriate data) and*
17 *entitled to benefits under part A and enrolled under part*
18 *B if they were not members of a MedicarePlus organization.*

19 “(f) *REQUIREMENT FOR ADDITIONAL BENEFITS, RE-*
20 *BATES, OR BOTH.—*

21 “(1) *REQUIREMENT.—*

22 “(A) *IN GENERAL.—Each MedicarePlus or-*
23 *ganization (in relation to a MedicarePlus plan*
24 *it offers) shall provide that if there is an excess*
25 *amount (as defined in subparagraph (B)) for the*

1 *plan for a contract year, subject to the succeed-*
2 *ing provisions of this subsection, the organiza-*
3 *tion shall provide to individuals such additional*
4 *benefits (as the organization may specify), a*
5 *monetary rebate (paid on a monthly basis), or a*
6 *combination thereof, in a total value which is at*
7 *least equal to the adjusted excess amount (as de-*
8 *fin ed in subparagraph (C)).*

9 “(B) *EXCESS AMOUNT.*—*For purposes of*
10 *this paragraph, the ‘excess amount’, for an orga-*
11 *nization for a plan, is the amount (if any) by*
12 *which—*

13 “(i) *the average of the capitation pay-*
14 *ments made to the organization under sec-*
15 *tion 1854 for the plan at the beginning of*
16 *contract year, exceeds*

17 “(ii) *the actuarial value of the required*
18 *benefits described in section 1852(a)(1)*
19 *under the plan for individuals under this*
20 *part, as determined based upon an adjusted*
21 *community rate described in paragraph (5)*
22 *(as reduced for the actuarial value of the co-*
23 *insurance and deductibles under parts A*
24 *and B).*

1 “(C) *ADJUSTED EXCESS AMOUNT.*—For
2 purposes of this paragraph, the ‘adjusted excess
3 amount’, for an organization for a plan, is the
4 excess amount reduced to reflect any amount
5 withheld and reserved for the organization for
6 the year under paragraph (3).

7 “(D) *NO APPLICATION TO HIGH DEDUCT-*
8 *IBLE PLANS.*—Subparagraph (A) shall not apply
9 to a high deductible plan.

10 “(E) *UNIFORM APPLICATION.*—This para-
11 graph shall be applied uniformly for all enrollees
12 for a plan in a MedicarePlus payment area.

13 “(F) *CONSTRUCTION.*—Nothing in this sub-
14 section shall be construed as preventing a
15 MedicarePlus organization from providing health
16 care benefits that are in addition to the benefits
17 otherwise required to be provided under this
18 paragraph and from imposing a premium for
19 such additional benefits.

20 “(2) *RULES IN RELATION TO REBATES.*—To the
21 extent that the adjusted excess amount for a plan ex-
22 ceeds the value of additional benefits provided under
23 subparagraph (A) by the MedicarePlus organization
24 in relation to the plan for a month, then the organi-

1 *zation shall provide for payment of the amount of*
2 *such excess as follows:*

3 *“(A) REBATE MEDICAREPLUS MSA.—If the*
4 *individual has a Rebate MedicarePlus MSA and*
5 *elects treatment under this subparagraph, the or-*
6 *ganization shall provide for payment of such ex-*
7 *cess into such MSA.*

8 *“(B) ADDITIONAL AMOUNT.—The organiza-*
9 *tion shall provide for payment of the amount of*
10 *any additional excess as follows:*

11 *“(i) 75 percent of such excess to the in-*
12 *dividual.*

13 *“(ii) 25 percent to the Federal Hos-*
14 *pital Insurance Trust Fund.*

15 *“(3) STABILIZATION FUND.—A MedicarePlus or-*
16 *ganization may provide that a part of the value of an*
17 *excess actuarial amount described in paragraph (1)*
18 *be withheld and reserved in the Federal Hospital In-*
19 *surance Trust Fund and in the Federal Supple-*
20 *mentary Medical Insurance Trust Fund (in such pro-*
21 *portions as the Secretary determines to be appro-*
22 *priate) by the Secretary for subsequent annual con-*
23 *tract periods, to the extent required to stabilize and*
24 *prevent undue fluctuations in the additional benefits*
25 *and rebates offered in those subsequent periods by the*

1 *organization in accordance with such paragraph. Any*
2 *of such value of the amount reserved which is not pro-*
3 *vided as additional benefits described in paragraph*
4 *(1)(A) to individuals electing the MedicarePlus plan*
5 *of the organization in accordance with such para-*
6 *graph prior to the end of such periods, shall revert for*
7 *the use of such trust funds.*

8 *“(4) DETERMINATION BASED ON INSUFFICIENT*
9 *DATA.—For purposes of this subsection, if the Sec-*
10 *retary finds that there is insufficient enrollment expe-*
11 *rience (including no enrollment experience in the case*
12 *of a provider-sponsored organization) to determine an*
13 *average of the capitation payments to be made under*
14 *this part at the beginning of a contract period, the*
15 *Secretary may determine such an average based on*
16 *the enrollment experience of other contracts entered*
17 *into under this part.*

18 *“(5) ADJUSTED COMMUNITY RATE.—*

19 *“(A) IN GENERAL.—For purposes of this*
20 *subsection, subject to subparagraph (B), the term*
21 *‘adjusted community rate’ for a service or serv-*
22 *ices means, at the election of a MedicarePlus or-*
23 *ganization, either—*

24 *“(i) the rate of payment for that serv-*
25 *ice or services which the Secretary annually*

1 *determines would apply to an individual*
2 *electing a MedicarePlus plan under this*
3 *part if the rate of payment were determined*
4 *under a ‘community rating system’ (as de-*
5 *defined in section 1302(8) of the Public*
6 *Health Service Act, other than subpara-*
7 *graph (C)), or*

8 *“(ii) such portion of the weighted ag-*
9 *gregate premium, which the Secretary an-*
10 *nually estimates would apply to such an in-*
11 *dividual, as the Secretary annually esti-*
12 *mates is attributable to that service or serv-*
13 *ices,*

14 *but adjusted for differences between the utiliza-*
15 *tion characteristics of the individuals electing*
16 *coverage under this part and the utilization*
17 *characteristics of the other enrollees with the or-*
18 *ganization (or, if the Secretary finds that ade-*
19 *quate data are not available to adjust for those*
20 *differences, the differences between the utilization*
21 *characteristics of individuals selecting other*
22 *MedicarePlus coverage, or MedicarePlus eligible*
23 *individuals in the area, in the State, or in the*
24 *United States, eligible to elect MedicarePlus cov-*
25 *erage under this part and the utilization charac-*

1 *teristics of the rest of the population in the area,*
2 *in the State, or in the United States, respec-*
3 *tively).*

4 “(B) *SPECIAL RULE FOR PROVIDER-SPON-*
5 *SORED ORGANIZATIONS.—In the case of a*
6 *MedicarePlus organization that is a provider-*
7 *sponsored organization, the adjusted community*
8 *rate under subparagraph (A) for a MedicarePlus*
9 *plan of the organization may be computed (in a*
10 *manner specified by the Secretary) using data in*
11 *the general commercial marketplace or (during a*
12 *transition period) based on the costs incurred by*
13 *the organization in providing such a plan.*

14 “(g) *TRANSITIONAL FILE AND USE FOR CERTAIN RE-*
15 *QUIREMENTS.—*

16 “(1) *IN GENERAL.—In the case of a*
17 *MedicarePlus plan proposed to be offered before the*
18 *end of the transition period (as defined in section*
19 *1851(e)(1)(B)) by a MedicarePlus organization de-*
20 *scribed in section 1853(f)(3) or by a MedicarePlus or-*
21 *ganization with a contract in effect under section*
22 *1857, if the organization submits complete informa-*
23 *tion to the Secretary regarding the plan demonstrat-*
24 *ing that the plan meets the requirements and stand-*
25 *ards under section 1852(a) and subsections (a)*

1 through (f) of this section (relating to benefits and
 2 premiums), the plan shall be deemed as meeting such
 3 requirements and standards under such provisions
 4 unless the Secretary disapproves the plan within 60
 5 days after the date of submission of the complete in-
 6 formation.

7 “(2) CONSTRUCTION.—Nothing in paragraph (1)
 8 shall be construed as waiving the requirement of a
 9 contract under section 1857 or waiving requirements
 10 and standards not referred to in paragraph (1).

11 “ESTABLISHMENT OF STANDARDS; CERTIFICATION OF
 12 ORGANIZATIONS AND PLANS

13 “SEC. 1856. (a) ESTABLISHMENT OF STANDARDS.—

14 “(1) STANDARDS APPLICABLE TO STATE-REGU-
 15 LATED ORGANIZATIONS AND PLANS AND NON-SOL-
 16 VENCY STANDARDS FOR PROVIDER-SPONSORED ORGA-
 17 NIZATIONS.—

18 “(A) RECOMMENDATIONS OF NAIC.—The
 19 Secretary shall request the National Association
 20 of Insurance Commissioners to develop and sub-
 21 mit to the Secretary, not later than 12 months
 22 after the date of the enactment of the Medicare
 23 Preservation Act of 1995, proposed standards
 24 consistent with the requirements of this part for
 25 MedicarePlus organizations (other than union
 26 sponsors and Taft-Hartley sponsors, and other

1 *than solvency standards described in subsection*
2 *(b) for provider-sponsored organizations) and*
3 *MedicarePlus plans offered by such organiza-*
4 *tions, except that such proposed standards may*
5 *relate to MedicarePlus organizations that are*
6 *qualified association sponsors only with respect*
7 *to MedicarePlus plans offered by them and only*
8 *if such plans are issued by organizations to*
9 *which section 1853(a)(1) applies.*

10 “(B) *REVIEW.*—*If the Association submits*
11 *such standards on a timely basis, the Secretary*
12 *shall review such standards to determine if the*
13 *standards meet the requirements of this part.*
14 *The Secretary shall complete the review of the*
15 *standards not later than 90 days after the date*
16 *of their submission. The Secretary shall promul-*
17 *gate such proposed standards to apply to organi-*
18 *zations and plans described in subparagraph (A)*
19 *except to the extent that the Secretary modifies*
20 *such proposed standards because they do not*
21 *meet such requirements.*

22 “(C) *FAILURE TO SUBMIT.*—*If the Associa-*
23 *tion does not submit such standards on a timely*
24 *basis, the Secretary shall promulgate such stand-*
25 *ards by not later than the date the Secretary*

1 *would otherwise have been required to promul-*
2 *gate standards under subparagraph (B).*

3 “(D) *USE OF INTERIM RULES.*—*For the pe-*
4 *riod in which this part is in effect and standards*
5 *are being developed and established under the*
6 *preceding provisions of this subsection, the Sec-*
7 *retary shall provide by not later than June 1,*
8 *1996, for the application of such interim stand-*
9 *ards (without regard to any requirements for no-*
10 *tice and public comment) as may be appropriate*
11 *to provide for the expedited implementation of*
12 *this part. Such interim standards shall not*
13 *apply after the date standards are established*
14 *under the preceding provisions of this para-*
15 *graph.*

16 “(2) *ESTABLISHMENT OF STANDARDS FOR UNION*
17 *AND TAFT-HARTLEY SPONSORS, QUALIFIED ASSOCIA-*
18 *TION SPONSORS, AND PLANS.*—

19 “(A) *IN GENERAL.*—*The Secretary shall de-*
20 *velop and promulgate by regulation standards*
21 *consistent with the requirements of this part for*
22 *union and Taft-Hartley sponsors, for qualified*
23 *association sponsors, and for MedicarePlus plans*
24 *offered by such organizations (other than*
25 *MedicarePlus plans offered by qualified associa-*

1 *tion sponsors that are issued by organizations to*
2 *which section 1853(a)(1) applies).*

3 *“(B) CONSULTATION WITH SECRETARY OF*
4 *LABOR.—The Secretary shall consult with the*
5 *Secretary of Labor with respect to such stand-*
6 *ards for such sponsors and plans.*

7 *“(C) TIMING.—Standards under this para-*
8 *graph shall be promulgated at or about the time*
9 *standards are promulgated under paragraph (1).*

10 *“(3) COORDINATION AMONG FINAL STANDARDS.—*
11 *In establishing standards (other than on an interim*
12 *basis) under this subsection and subsection (b), the*
13 *Secretary shall seek to provide for consistency (as ap-*
14 *propriate) across the different types of MedicarePlus*
15 *organizations, in order to promote equitable treat-*
16 *ment of different types of organizations and consistent*
17 *protection for individuals who elect plans offered by*
18 *the different types of MedicarePlus organizations.*

19 *“(4) USE OF CURRENT STANDARDS FOR INTERIM*
20 *STANDARDS.—To the extent practicable and consistent*
21 *with the requirements of this part, standards estab-*
22 *lished on an interim basis to carry out requirements*
23 *of this part may be based on currently applicable*
24 *standards, such as the rules established under section*
25 *1876 (as in effect as of the date of the enactment of*

1 *this section) to carry out analogous provisions of such*
2 *section or standards established or developed for ap-*
3 *plication in the private health insurance market.*

4 “(5) *APPLICATION OF NEW STANDARDS TO ENTI-*
5 *TIES WITH A CONTRACT.—In the case of a*
6 *MedicarePlus organization with a contract in effect*
7 *under this part at the time standards applicable to*
8 *the organization under this section are changed, the*
9 *organization may elect not to have such changes*
10 *apply to the organization until the end of the current*
11 *contract year (or, if there is less than 6 months re-*
12 *maining in the contract year, until 1 year after the*
13 *end of the current contract year).*

14 “(6) *RELATION TO STATE LAWS.—The standards*
15 *established under this subsection shall supersede any*
16 *State law or regulation with respect to MedicarePlus*
17 *plans which are offered by MedicarePlus organiza-*
18 *tions under this part and are issued by organizations*
19 *to which section 1853(a)(1) applies, to the extent such*
20 *law or regulation is inconsistent with such standards.*

21 “(b) *ESTABLISHMENT OF SOLVENCY STANDARDS FOR*
22 *PROVIDER-SPONSORED ORGANIZATIONS.—*

23 “(1) *ESTABLISHMENT.—*

24 “(A) *IN GENERAL.—The Secretary shall es-*
25 *tablish, on an expedited basis and using a nego-*

1 *tiated rulemaking process under subchapter 3 of*
2 *chapter 5 of title 5, United States Code, stand-*
3 *ards described in section 1853(e) (relating to the*
4 *financial solvency and capital adequacy of the*
5 *organization) that entities must meet to qualify*
6 *as provider-sponsored organizations under this*
7 *part.*

8 “(B) *FACTORS TO CONSIDER.—In establish-*
9 *ing solvency standards under subparagraph (A)*
10 *for provider-sponsored organizations, the Sec-*
11 *retary shall consult with interested parties and*
12 *shall take into account—*

13 “(i) *the delivery system assets of such*
14 *an organization and ability of such an or-*
15 *ganization to provide services directly to en-*
16 *rollees through affiliated providers, and*

17 “(ii) *alternative means of protecting*
18 *against insolvency, including reinsurance,*
19 *unrestricted surplus, letters of credit, guar-*
20 *antees, organizational insurance coverage,*
21 *partnerships with other licensed entities,*
22 *and valuation attributable to the ability of*
23 *such an organization to meet its service ob-*
24 *ligations through direct delivery of care.*

1 “(2) *PUBLICATION OF NOTICE.*—*In carrying out*
2 *the rulemaking process under this subsection, the Sec-*
3 *retary, after consultation with the National Associa-*
4 *tion of Insurance Commissioners, the American Acad-*
5 *emy of Actuaries, organizations representative of*
6 *medicare beneficiaries, and other interested parties,*
7 *shall publish the notice provided for under section*
8 *564(a) of title 5, United States Code, by not later*
9 *than 45 days after the date of the enactment of Medi-*
10 *care Preservation Act of 1995.*

11 “(3) *TARGET DATE FOR PUBLICATION OF*
12 *RULE.*—*As part of the notice under paragraph (2),*
13 *and for purposes of this subsection, the ‘target date*
14 *for publication’ (referred to in section 564(a)(5) of*
15 *such title) shall be September 1, 1996.*

16 “(4) *ABBREVIATED PERIOD FOR SUBMISSION OF*
17 *COMMENTS.*—*In applying section 564(c) of such title*
18 *under this subsection, ‘15 days’ shall be substituted*
19 *for ‘30 days’.*

20 “(5) *APPOINTMENT OF NEGOTIATED RULE-*
21 *MAKING COMMITTEE AND FACILITATOR.*—*The Sec-*
22 *retary shall provide for—*

23 “(A) *the appointment of a negotiated rule-*
24 *making committee under section 565(a) of such*
25 *title by not later than 30 days after the end of*

1 *the comment period provided for under section*
2 *564(c) of such title (as shortened under para-*
3 *graph (4)), and*

4 *“(B) the nomination of a facilitator under*
5 *section 566(c) of such title by not later than 10*
6 *days after the date of appointment of the com-*
7 *mittee.*

8 *“(6) PRELIMINARY COMMITTEE REPORT.—The*
9 *negotiated rulemaking committee appointed under*
10 *paragraph (5) shall report to the Secretary, by not*
11 *later than June 1, 1996, regarding the committee’s*
12 *progress on achieving a consensus with regard to the*
13 *rulemaking proceeding and whether such consensus is*
14 *likely to occur before one month before the target date*
15 *for publication of the rule. If the committee reports*
16 *that the committee has failed to make significant*
17 *progress towards such consensus or is unlikely to*
18 *reach such consensus by the target date, the Secretary*
19 *may terminate such process and provide for the publi-*
20 *cation of a rule under this subsection through such*
21 *other methods as the Secretary may provide.*

22 *“(7) FINAL COMMITTEE REPORT.—If the commit-*
23 *tee is not terminated under paragraph (6), the rule-*
24 *making committee shall submit a report containing a*

1 *proposed rule by not later than one month before the*
2 *target publication date.*

3 “(8) *INTERIM, FINAL EFFECT.—The Secretary*
4 *shall publish a rule under this subsection in the Fed-*
5 *eral Register by not later than the target publication*
6 *date. Such rule shall be effective and final imme-*
7 *diately on an interim basis, but is subject to change*
8 *and revision after public notice and opportunity for*
9 *a period (of not less than 60 days) for public com-*
10 *ment. In connection with such rule, the Secretary*
11 *shall specify the process for the timely review and ap-*
12 *proval of applications of entities to be certified as*
13 *provider-sponsored organizations pursuant to such*
14 *rules and consistent with this subsection.*

15 “(9) *PUBLICATION OF RULE AFTER PUBLIC COM-*
16 *MENT.—The Secretary shall provide for consideration*
17 *of such comments and republication of such rule by*
18 *not later than 1 year after the target publication*
19 *date.*

20 “(10) *PROCESS FOR APPROVAL OF APPLICATIONS*
21 *FOR CERTIFICATION OF SOLVENCY.—*

22 “(A) *IN GENERAL.—The Secretary shall es-*
23 *tablish a process for the receipt and approval of*
24 *applications of entities for certification of sol-*
25 *vency of provider-sponsored organizations under*

1 *this part. Under such process, the Secretary shall*
2 *act upon a complete application submitted with-*
3 *in 60 days after the date it is received.*

4 “(B) *CIRCULATION OF PROPOSED APPLICA-*
5 *TION FORM.—By March 1, 1996, the Secretary,*
6 *after consultation with the negotiated rule-*
7 *making committee, shall circulate a proposed ap-*
8 *plication form that could be used by entities con-*
9 *sidering being certified for solvency under this*
10 *part.*

11 “(c) *CERTIFICATION PROCESS.—*

12 “(1) *STATE CERTIFICATION PROCESS FOR STATE-*
13 *REGULATED ORGANIZATIONS AND NON-SOLVENCY*
14 *STANDARDS FOR PROVIDER-SPONSORED ORGANIZA-*
15 *TIONS.—*

16 “(A) *APPROVAL OF STATE PROCESS.—The*
17 *Secretary shall approve a MedicarePlus certifi-*
18 *cation and enforcement program established by a*
19 *State for applying the standards established*
20 *under this section to MedicarePlus organizations*
21 *(other than union sponsors and Taft-Hartley*
22 *sponsors and other than solvency standards for*
23 *provider-sponsored organizations) and*
24 *MedicarePlus plans offered by such organizations*
25 *if the Secretary determines that the program ef-*

1 *fectively provides for the application and en-*
2 *forcement of such standards in the State with re-*
3 *spect to such organizations and plans and does*
4 *not discriminate in its application by type of or-*
5 *ganization or plan. Such program shall provide*
6 *for certification of compliance of MedicarePlus*
7 *organizations and plans with the applicable re-*
8 *quirements of this part not less often than once*
9 *every 3 years.*

10 “(B) *EFFECT OF CERTIFICATION UNDER*
11 *STATE PROCESS.—A MedicarePlus organization*
12 *and MedicarePlus plan offered by such an orga-*
13 *nization that is certified under such program is*
14 *considered to have been certified under this para-*
15 *graph with respect to the offering of the plan to*
16 *individuals residing in the State.*

17 “(C) *USER FEES.—The State may impose*
18 *user fees on organizations seeking certification*
19 *under this paragraph in such amounts as the*
20 *State deems sufficient to finance the costs of such*
21 *certification. Nothing in this subparagraph shall*
22 *be construed as restricting a State’s authority to*
23 *impose premium taxes, other taxes, or other lev-*
24 *ies.*

1 “(D) *REVIEW.*—*The Secretary periodically*
2 *shall review State programs approved under sub-*
3 *paragraph (A) to determine if they continue to*
4 *provide for certification and enforcement de-*
5 *scribed in such paragraph. If the Secretary finds*
6 *that a State program no longer so provides, be-*
7 *fore making a final determination, the Secretary*
8 *shall provide the State an opportunity to adopt*
9 *such a plan of correction as would permit the*
10 *State program to meet the requirements of para-*
11 *graph (1). If the Secretary makes a final deter-*
12 *mination that the State program, after such an*
13 *opportunity, fails to meet such requirements, the*
14 *provisions of subsection (b) shall apply to*
15 *MedicarePlus organizations and plans in the*
16 *State.*

17 “(E) *EFFECT OF NO STATE PROGRAM.*—*Be-*
18 *ginning on the date standards are established*
19 *under section 1856, in the case of organizations*
20 *and plans in States in which a certification pro-*
21 *gram has not been approved and in operation*
22 *under subparagraph (A), the Secretary shall es-*
23 *tablish a process for the certification of*
24 *MedicarePlus organizations (other than union*
25 *sponsors and Taft-Hartley sponsors and other*

1 *than solvency standards for provider-sponsored*
2 *organizations) and plans of such organizations*
3 *as meeting such standards.*

4 “(F) *PUBLICATION OF LIST OF APPROVED*
5 *STATE PROGRAMS.—The Secretary shall publish*
6 *(and periodically update) a list of those State*
7 *programs which are approved for purposes of*
8 *this paragraph.*

9 “(2) *FEDERAL CERTIFICATION PROCESS FOR*
10 *UNION SPONSORS AND TAFT-HARTLEY SPONSORS.—*

11 “(A) *ESTABLISHMENT.—The Secretary shall*
12 *establish a process for the certification of union*
13 *sponsors and Taft-Hartley sponsors and*
14 *MedicarePlus plans offered by such sponsors and*
15 *organizations as meeting the applicable stand-*
16 *ards established under this section.*

17 “(B) *INVOLVEMENT OF SECRETARY OF*
18 *LABOR.—Such process shall be established and*
19 *operated in cooperation with the Secretary of*
20 *Labor with respect to union sponsors and Taft-*
21 *Hartley sponsors.*

22 “(C) *USE OF STATE LICENSING AND PRI-*
23 *VATE ACCREDITATION PROCESSES.—*

24 “(i) *IN GENERAL.—The process under*
25 *this paragraph shall, to the maximum ex-*

1 *tent practicable, provide that MedicarePlus*
2 *organizations and plans that are licensed or*
3 *certified through a qualified private accred-*
4 *itation process that the Secretary finds ap-*
5 *plies standards that are no less stringent*
6 *than the requirements of this part are*
7 *deemed to meet the corresponding require-*
8 *ments of this part for such an organization*
9 *or plan.*

10 “(i) *PERIODIC ACCREDITATION.*—*The*
11 *use of an accreditation under clause (i)*
12 *shall be valid only for such period as the*
13 *Secretary specifies.*

14 “(D) *USER FEES.*—*The Secretary may im-*
15 *pose user fees on entities seeking certification*
16 *under this paragraph in such amounts as the*
17 *Secretary deems sufficient to finance the costs of*
18 *such certification.*

19 “(3) *NOTICE TO ENROLLEES IN CASE OF DECER-*
20 *TIFICATION.*—*If a MedicarePlus organization or plan*
21 *is decertified under this subsection, the organization*
22 *shall notify each enrollee with the organization and*
23 *plan under this part of such decertification.*

24 “(4) *QUALIFIED ASSOCIATION SPONSORS.*—*In*
25 *the case of MedicarePlus plans offered by a*

1 *MedicarePlus organization that is a qualified associa-*
2 *tion sponsor and issued by an organization to which*
3 *section 1853(a)(1) applies or by a provider-sponsored*
4 *organization, nothing in this subsection shall be con-*
5 *strued as limiting the authority of States to regulate*
6 *such plans.*

7 “CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

8 “SEC. 1857. (a) *IN GENERAL.*—*The Secretary shall*
9 *not permit the election under section 1851 of a*
10 *MedicarePlus plan offered by a MedicarePlus organization*
11 *under this part, and no payment shall be made under sec-*
12 *tion 1854 to an organization, unless the Secretary has en-*
13 *tered into a contract under this section with an organiza-*
14 *tion with respect to the offering of such plan. Such a con-*
15 *tract with an organization may cover more than one*
16 *MedicarePlus plan. Such contract shall provide that the or-*
17 *ganization agrees to comply with the applicable require-*
18 *ments and standards of this part and the terms and condi-*
19 *tions of payment as provided for in this part.*

20 “(b) *MINIMUM ENROLLMENT REQUIREMENTS.*—

21 “(1) *IN GENERAL.*—*Subject to paragraphs (2)*
22 *and (3), the Secretary may not enter into a contract*
23 *under this section with a MedicarePlus organization*
24 *(other than a union sponsor or Taft-Hartley sponsor)*
25 *unless the organization has at least 5,000 individuals*
26 *(or 1,500 individuals in the case of an organization*

1 that is a provider-sponsored organization) who are re-
2 ceiving health benefits through the organization, ex-
3 cept that the standards under section 1856 may per-
4 mit the organization to have a lesser number of bene-
5 ficiaries (but not less than 500 in the case of an orga-
6 nization that is a provider-sponsored organization) if
7 the organization primarily serves individuals resid-
8 ing outside of urbanized areas.

9 “(2) *EXCEPTION FOR HIGH DEDUCTIBLE*
10 *PLAN.*—Paragraph (1) shall not apply with respect to
11 a contract that relates only to a high deductible plan.

12 “(3) *ALLOWING TRANSITION.*—The Secretary
13 may waive the requirement of paragraph (1) during
14 the first 3 contract years with respect to an organiza-
15 tion.

16 “(c) *CONTRACT PERIOD AND EFFECTIVENESS.*—

17 “(1) *PERIOD.*—Each contract under this section
18 shall be for a term of at least one year, as determined
19 by the Secretary, and may be made automatically re-
20 newable from term to term in the absence of notice by
21 either party of intention to terminate at the end of
22 the current term.

23 “(2) *TERMINATION AUTHORITY.*—In accordance
24 with procedures established under subsection (h), the
25 Secretary may at any time terminate any such con-

1 tract or may impose the intermediate sanctions de-
2 scribed in an applicable paragraph of subsection (g)
3 on the MedicarePlus organization if the Secretary de-
4 termines that the organization—

5 “(A) has failed substantially to carry out
6 the contract;

7 “(B) is carrying out the contract in a man-
8 ner inconsistent with the efficient and effective
9 administration of this part; and

10 “(C) no longer substantially meets the ap-
11 plicable conditions of this part.

12 “(3) *EFFECTIVE DATE OF CONTRACTS.*—The ef-
13 fective date of any contract executed pursuant to this
14 section shall be specified in the contract, except that
15 in no case shall a contract under this section which
16 provides for coverage under a high deductible account
17 be effective before January 1997 with respect to such
18 coverage.

19 “(4) *PREVIOUS TERMINATIONS.*—The Secretary
20 may not enter into a contract with a MedicarePlus
21 organization if a previous contract with that organi-
22 zation under this section was terminated at the re-
23 quest of the organization within the preceding five-
24 year period, except in circumstances which warrant
25 special consideration, as determined by the Secretary.

1 “(5) *NO CONTRACTING AUTHORITY.*—*The author-*
2 *ity vested in the Secretary by this part may be per-*
3 *formed without regard to such provisions of law or*
4 *regulations relating to the making, performance,*
5 *amendment, or modification of contracts of the Unit-*
6 *ed States as the Secretary may determine to be incon-*
7 *sistent with the furtherance of the purpose of this*
8 *title.*

9 “(d) *PROTECTIONS AGAINST FRAUD AND BENEFICIARY*
10 *PROTECTIONS.*—

11 “(1) *INSPECTION AND AUDIT.*—*Each contract*
12 *under this section shall provide that the Secretary, or*
13 *any person or organization designated by the Sec-*
14 *retary—*

15 “(A) *shall have the right to inspect or other-*
16 *wise evaluate (i) the quality, appropriateness,*
17 *and timeliness of services performed under the*
18 *contract and (ii) the facilities of the organization*
19 *when there is reasonable evidence of some need*
20 *for such inspection, and*

21 “(B) *shall have the right to audit and in-*
22 *spect any books and records of the MedicarePlus*
23 *organization that pertain (i) to the ability of the*
24 *organization to bear the risk of potential finan-*
25 *cial losses, or (ii) to services performed or deter-*

1 *minations of amounts payable under the con-*
2 *tract.*

3 “(2) *ENROLLEE NOTICE AT TIME OF TERMI-*
4 *NATION.—Each contract under this section shall re-*
5 *quire the organization to provide (and pay for) writ-*
6 *ten notice in advance of the contract’s termination, as*
7 *well as a description of alternatives for obtaining ben-*
8 *efits under this title, to each individual enrolled with*
9 *the organization under this part.*

10 “(3) *DISCLOSURE.—*

11 “(A) *IN GENERAL.—Each MedicarePlus or-*
12 *ganization shall, in accordance with regulations*
13 *of the Secretary, report to the Secretary finan-*
14 *cial information which shall include the follow-*
15 *ing:*

16 “(i) *Such information as the Secretary*
17 *may require demonstrating that the organi-*
18 *zation has a fiscally sound operation.*

19 “(ii) *A copy of the report, if any, filed*
20 *with the Health Care Financing Adminis-*
21 *tration containing the information required*
22 *to be reported under section 1124 by disclos-*
23 *ing entities.*

24 “(iii) *A description of transactions, as*
25 *specified by the Secretary, between the orga-*

1 *nization and a party in interest. Such*
2 *transactions shall include—*

3 *“(I) any sale or exchange, or leas-*
4 *ing of any property between the orga-*
5 *nization and a party in interest;*

6 *“(II) any furnishing for consider-*
7 *ation of goods, services (including*
8 *management services), or facilities be-*
9 *tween the organization and a party in*
10 *interest, but not including salaries*
11 *paid to employees for services provided*
12 *in the normal course of their employ-*
13 *ment and health services provided to*
14 *members by hospitals and other pro-*
15 *viders and by staff, medical group (or*
16 *groups), individual practice associa-*
17 *tion (or associations), or any combina-*
18 *tion thereof; and*

19 *“(III) any lending of money or*
20 *other extension of credit between an or-*
21 *ganization and a party in interest.*

22 *The Secretary may require that information re-*
23 *ported respecting an organization which controls,*
24 *is controlled by, or is under common control*
25 *with, another entity be in the form of a consoli-*

1 *dated financial statement for the organization*
2 *and such entity.*

3 “(B) *PARTY IN INTEREST DEFINED.*—*For*
4 *the purposes of this paragraph, the term ‘party*
5 *in interest’ means—*

6 “(i) *any director, officer, partner, or*
7 *employee responsible for management or ad-*
8 *ministration of a MedicarePlus organiza-*
9 *tion, any person who is directly or indi-*
10 *rectly the beneficial owner of more than 5*
11 *percent of the equity of the organization,*
12 *any person who is the beneficial owner of a*
13 *mortgage, deed of trust, note, or other inter-*
14 *est secured by, and valuing more than 5*
15 *percent of the organization, and, in the case*
16 *of a MedicarePlus organization organized*
17 *as a nonprofit corporation, an incorporator*
18 *or member of such corporation under appli-*
19 *cable State corporation law;*

20 “(ii) *any entity in which a person de-*
21 *scribed in clause (i)—*

22 “(I) *is an officer or director;*

23 “(II) *is a partner (if such entity*
24 *is organized as a partnership);*

1 “(III) has directly or indirectly a
2 beneficial interest of more than 5 per-
3 cent of the equity; or

4 “(IV) has a mortgage, deed of
5 trust, note, or other interest valuing
6 more than 5 percent of the assets of
7 such entity;

8 “(iii) any person directly or indirectly
9 controlling, controlled by, or under common
10 control with an organization; and

11 “(iv) any spouse, child, or parent of an
12 individual described in clause (i).

13 “(C) ACCESS TO INFORMATION.—Each
14 MedicarePlus organization shall make the infor-
15 mation reported pursuant to subparagraph (A)
16 available to its enrollees upon reasonable request.

17 “(4) LOAN INFORMATION.—The contract shall re-
18 quire the organization to notify the Secretary of loans
19 and other special financial arrangements which are
20 made between the organization and subcontractors,
21 affiliates, and related parties.

22 “(e) ADDITIONAL CONTRACT TERMS.—The contract
23 shall contain such other terms and conditions not inconsis-
24 tent with this part (including requiring the organization to

1 *provide the Secretary with such information) as the Sec-*
2 *retary may find necessary and appropriate.*

3 “(f) *INTERMEDIATE SANCTIONS.*—

4 “(1) *IN GENERAL.*—*If the Secretary determines*
5 *that a MedicarePlus organization with a contract*
6 *under this section—*

7 “(A) *fails substantially to provide medically*
8 *necessary items and services that are required*
9 *(under law or under the contract) to be provided*
10 *to an individual covered under the contract, if*
11 *the failure has adversely affected (or has substan-*
12 *tial likelihood of adversely affecting) the individ-*
13 *ual;*

14 “(B) *imposes net monthly premiums on in-*
15 *dividuals enrolled under this part in excess of*
16 *the net monthly premiums permitted;*

17 “(C) *acts to expel or to refuse to re-enroll an*
18 *individual in violation of the provisions of this*
19 *part;*

20 “(D) *engages in any practice that would*
21 *reasonably be expected to have the effect of deny-*
22 *ing or discouraging enrollment (except as per-*
23 *mitted by this part) by eligible individuals with*
24 *the organization whose medical condition or his-*

1 *tory indicates a need for substantial future medi-*
2 *cal services;*

3 “(E) *misrepresents or falsifies information*
4 *that is furnished—*

5 “(i) *to the Secretary under this part,*
6 *or*

7 “(ii) *to an individual or to any other*
8 *entity under this part;*

9 “(F) *fails to comply with the requirements*
10 *of section 1852(j)(3); or*

11 “(G) *employs or contracts with any indi-*
12 *vidual or entity that is excluded from participa-*
13 *tion under this title under section 1128 or 1128A*
14 *for the provision of health care, utilization re-*
15 *view, medical social work, or administrative*
16 *services or employs or contracts with any entity*
17 *for the provision (directly or indirectly) through*
18 *such an excluded individual or entity of such*
19 *services;*

20 *the Secretary may provide, in addition to any other*
21 *remedies authorized by law, for any of the remedies*
22 *described in paragraph (2).*

23 “(2) *REMEDIES.—The remedies described in this*
24 *paragraph are—*

1 “(A) civil money penalties of not more than
2 \$25,000 for each determination under paragraph
3 (1) or, with respect to a determination under
4 subparagraph (D) or (E)(i) of such paragraph,
5 of not more than \$100,000 for each such deter-
6 mination, plus, with respect to a determination
7 under paragraph (1)(B), double the excess
8 amount charged in violation of such paragraph
9 (and the excess amount charged shall be deducted
10 from the penalty and returned to the individual
11 concerned), and plus, with respect to a deter-
12 mination under paragraph (1)(D), \$15,000 for
13 each individual not enrolled as a result of the
14 practice involved,

15 “(B) suspension of enrollment of individ-
16 uals under this part after the date the Secretary
17 notifies the organization of a determination
18 under paragraph (1) and until the Secretary is
19 satisfied that the basis for such determination
20 has been corrected and is not likely to recur, or

21 “(C) suspension of payment to the organiza-
22 tion under this part for individuals enrolled
23 after the date the Secretary notifies the organiza-
24 tion of a determination under paragraph (1)
25 and until the Secretary is satisfied that the basis

1 *for such determination has been corrected and is*
2 *not likely to recur.*

3 “(3) *OTHER INTERMEDIATE SANCTIONS.—In the*
4 *case of a MedicarePlus organization for which the*
5 *Secretary makes a determination under subsection*
6 *(c)(2) the basis of which is not described in para-*
7 *graph (1), the Secretary may apply the following in-*
8 *termediate sanctions:*

9 “(A) *civil money penalties of not more than*
10 *\$25,000 for each determination under subsection*
11 *(c)(2) if the deficiency that is the basis of the de-*
12 *termination has directly adversely affected (or*
13 *has the substantial likelihood of adversely affect-*
14 *ing) an individual covered under the organiza-*
15 *tion’s contract;*

16 “(B) *civil money penalties of not more than*
17 *\$10,000 for each week beginning after the initi-*
18 *ation of procedures by the Secretary under sub-*
19 *section (h) during which the deficiency that is*
20 *the basis of a determination under subsection*
21 *(c)(2) exists; and*

22 “(C) *suspension of enrollment of individuals*
23 *under this part after the date the Secretary noti-*
24 *fies the organization of a determination under*
25 *subsection (c)(2) and until the Secretary is satis-*

1 *fied that the deficiency that is the basis for the*
2 *determination has been corrected and is not like-*
3 *ly to recur.*

4 “(4) *PROCEEDINGS.*—*The provisions of section*
5 *1128A (other than subsections (a) and (b)) shall*
6 *apply to a civil money penalty under paragraph (1)*
7 *or (2) in the same manner as they apply to a civil*
8 *money penalty or proceeding under section 1128A(a).*

9 “(g) *PROCEDURES FOR IMPOSING SANCTIONS.*—*The*
10 *Secretary may terminate a contract with a MedicarePlus*
11 *organization under this section or may impose the inter-*
12 *mediate sanctions described in subsection (f) on the organi-*
13 *zation in accordance with formal investigation and compli-*
14 *ance procedures established by the Secretary under which—*

15 “(1) *the Secretary provides the organization with*
16 *the reasonable opportunity to develop and implement*
17 *a corrective action plan to correct the deficiencies that*
18 *were the basis of the Secretary’s determination under*
19 *subsection (c)(2);*

20 “(2) *the Secretary shall impose more severe sanc-*
21 *tions on organizations that have a history of defi-*
22 *ciencies or that have not taken steps to correct defi-*
23 *ciencies the Secretary has brought to their attention;*

1 “(3) *there are no unreasonable or unnecessary*
2 *delays between the finding of a deficiency and the im-*
3 *position of sanctions; and*

4 “(4) *the Secretary provides the organization with*
5 *reasonable notice and opportunity for hearing (in-*
6 *cluding the right to appeal an initial decision) before*
7 *imposing any sanction or terminating the contract.*

8 “*STANDARDS FOR MEDICAREPLUS AND MEDICARE*
9 *INFORMATION TRANSACTIONS AND DATA ELEMENTS*

10 “*SEC. 1858. (a) ADOPTION OF STANDARDS FOR DATA*
11 *ELEMENTS.—*

12 “(1) *IN GENERAL.—Pursuant to subsection (b),*
13 *the Secretary shall adopt standards for information*
14 *transactions and data elements of MedicarePlus and*
15 *medicare information and modifications to the stand-*
16 *ards under this section that are—*

17 “(A) *consistent with the objective of reduc-*
18 *ing the administrative costs of providing and*
19 *paying for health care; and*

20 “(B) *developed or modified by a standard*
21 *setting organization (as defined in subsection*
22 *(h)(8)).*

23 “(2) *SPECIAL RULE RELATING TO DATA ELE-*
24 *MENTS.—The Secretary may adopt or modify a*
25 *standard relating to data elements that is different*

1 *from the standard developed by a standard setting or-*
2 *ganization, if—*

3 “(A) *the different standard or modification*
4 *will substantially reduce administrative costs to*
5 *health care providers and health plans compared*
6 *to the alternative; and*

7 “(B) *the standard or modification is pro-*
8 *mulgated in accordance with the rulemaking*
9 *procedures of subchapter III of chapter 5 of title*
10 *5, United States Code.*

11 “(3) *SECURITY STANDARDS FOR HEALTH INFOR-*
12 *MATION NETWORK.—*

13 “(A) *IN GENERAL.—Each person, who*
14 *maintains or transmits MedicarePlus and medi-*
15 *care information or data elements of*
16 *MedicarePlus and medicare information and is*
17 *subject to this section, shall maintain reasonable*
18 *and appropriate administrative, technical, and*
19 *physical safeguards—*

20 “(i) *to ensure the integrity and con-*
21 *fidentiality of the information;*

22 “(ii) *to protect against any reasonably*
23 *anticipated—*

1 “(I) threats or hazards to the se-
2 curity or integrity of the information;
3 and

4 “(II) unauthorized uses or disclo-
5 sures of the information; and

6 “(iii) to otherwise ensure compliance
7 with this section by the officers and employ-
8 ees of such person.

9 “(B) SECURITY STANDARDS.—The Sec-
10 retary shall establish security standards and
11 modifications to such standards with respect to
12 MedicarePlus and medicare information network
13 services, health plans, and health care providers
14 that—

15 “(i) take into account—

16 “(I) the technical capabilities of
17 record systems used to maintain
18 MedicarePlus and medicare informa-
19 tion;

20 “(II) the costs of security meas-
21 ures;

22 “(III) the need for training per-
23 sons who have access to MedicarePlus
24 and medicare information; and

1 “(IV) the value of audit trails in
2 computerized record systems; and

3 “(ii) ensure that a MedicarePlus and
4 medicare information network service, if it
5 is part of a larger organization, has policies
6 and security procedures which isolate the
7 activities of such service with respect to
8 processing information in a manner that
9 prevents unauthorized access to such infor-
10 mation by such larger organization.

11 *The security standards established by the Sec-*
12 *retary shall be based on the standards developed*
13 *or modified by standard setting organizations. If*
14 *such standards do not exist, the Secretary shall*
15 *rely on the recommendations of the MedicarePlus*
16 *and Medicare Information Advisory Committee*
17 *(established under subsection (g)) and shall con-*
18 *sult with appropriate government agencies and*
19 *private organizations in accordance with para-*
20 *graph (5).*

21 “(4) *IMPLEMENTATION SPECIFICATIONS.—The*
22 *Secretary shall establish specifications for implement-*
23 *ing each of the standards and the modifications to the*
24 *standards adopted pursuant to paragraph (1) or (3).*

1 “(5) *ASSISTANCE TO THE SECRETARY.*—*In com-*
2 *plying with the requirements of this section, the Sec-*
3 *retary shall rely on recommendations of the*
4 *MedicarePlus and Medicare Information Advisory*
5 *Committee established under subsection (g) and shall*
6 *consult with appropriate Federal and State agencies*
7 *and private organizations. The Secretary shall pub-*
8 *lish in the Federal Register the recommendations of*
9 *the MedicarePlus and Medicare Information Advisory*
10 *Committee regarding the adoption of a standard*
11 *under this section.*

12 “(b) *STANDARDS FOR INFORMATION TRANSACTIONS*
13 *AND DATA ELEMENTS.*—

14 “(1) *IN GENERAL.*—*The Secretary shall adopt*
15 *standards for transactions and data elements to make*
16 *MedicarePlus and medicare information uniformly*
17 *available to be exchanged electronically, that is—*

18 “(A) *appropriate for the following financial*
19 *and administrative transactions: claims (includ-*
20 *ing coordination of benefits) or equivalent en-*
21 *counter information, enrollment and*
22 *disenrollment, eligibility, premium payments,*
23 *and referral certification and authorization; and*

24 “(B) *related to other financial and admin-*
25 *istrative transactions determined appropriate by*

1 *the Secretary consistent with the goals of im-*
2 *proving the operation of the health care system*
3 *and reducing administrative costs.*

4 “(2) *UNIQUE HEALTH IDENTIFIERS.—*

5 “(A) *ADOPTION OF STANDARDS.—The Sec-*
6 *retary shall adopt standards providing for a*
7 *standard unique health identifier for each indi-*
8 *vidual, employer, health plan, and health care*
9 *provider for use in the MedicarePlus and medi-*
10 *care information system. In developing unique*
11 *health identifiers for each health plan and health*
12 *care provider, the Secretary shall take into ac-*
13 *count multiple uses for identifiers and multiple*
14 *locations and specialty classifications for health*
15 *care providers.*

16 “(B) *PENALTY FOR IMPROPER DISCLO-*
17 *SURE.—A person who knowingly uses or causes*
18 *to be used a unique health identifier under sub-*
19 *paragraph (A) for a purpose that is not author-*
20 *ized by the Secretary shall—*

21 “(i) *be fined not more than \$50,000,*
22 *imprisoned not more than 1 year, or both;*
23 *or*

24 “(ii) *if the offense is committed under*
25 *false pretenses, be fined not more than*

1 \$100,000, imprisoned not more than 5
2 years, or both.

3 “(3) *CODE SETS.*—

4 “(A) *IN GENERAL.*—The Secretary, in con-
5 sultation with the MedicarePlus and Medicare
6 Information Advisory Committee, experts from
7 the private sector, and Federal and State agen-
8 cies, shall—

9 “(i) select code sets for appropriate
10 data elements from among the code sets that
11 have been developed by private and public
12 entities; or

13 “(ii) establish code sets for such data
14 elements if no code sets for the data ele-
15 ments have been developed.

16 “(B) *DISTRIBUTION.*—The Secretary shall
17 establish efficient and low-cost procedures for
18 distribution (including electronic distribution) of
19 code sets and modifications made to such code
20 sets under subsection (c)(2).

21 “(4) *ELECTRONIC SIGNATURE.*—

22 “(A) *IN GENERAL.*—The Secretary, after
23 consultation with the MedicarePlus and Medi-
24 care Information Advisory Committee, shall pro-
25 mulgate regulations specifying procedures for the

1 *electronic transmission and authentication of*
2 *signatures, compliance with which will be*
3 *deemed to satisfy Federal and State statutory re-*
4 *quirements for written signatures with respect to*
5 *information transactions required by this section*
6 *and written signatures on enrollment and*
7 *disenrollment forms.*

8 “(B) *PAYMENTS FOR SERVICES AND PRE-*
9 *MIUMS.—Nothing in this section shall be con-*
10 *strued to prohibit the payment of health care*
11 *services or health plan premiums by debit, cred-*
12 *it, payment card or numbers, or other electronic*
13 *means.*

14 “(5) *TRANSFER OF INFORMATION BETWEEN*
15 *HEALTH PLANS.—The Secretary shall develop rules*
16 *and procedures—*

17 “(A) *for determining the financial liability*
18 *of health plans when health care benefits are*
19 *payable under two or more health plans; and*

20 “(B) *for transferring among health plans*
21 *appropriate standard data elements needed for*
22 *the coordination of benefits, the sequential proc-*
23 *essing of claims, and other data elements for in-*
24 *dividuals who have more than one health plan.*

1 “(6) *COORDINATION OF BENEFITS.*—*If, at the*
2 *end of the 5-year period beginning on the date of the*
3 *enactment of this section, the Secretary determines*
4 *that additional transaction standards for coordinat-*
5 *ing benefits are necessary to reduce administrative*
6 *costs or duplicative (or inappropriate) payment of*
7 *claims, the Secretary shall establish further trans-*
8 *action standards for the coordination of benefits be-*
9 *tween health plans.*

10 “(7) *PROTECTION OF TRADE SECRETS.*—*Except*
11 *as otherwise required by law, the standards adopted*
12 *under this section shall not require disclosure of trade*
13 *secrets or confidential commercial information by an*
14 *entity operating a MedicarePlus and medicare infor-*
15 *mation network.*

16 “(c) *TIMETABLES FOR ADOPTION OF STANDARDS.*—

17 “(1) *INITIAL STANDARDS.*—*Not later than 18*
18 *months after the date of the enactment of this section,*
19 *the Secretary shall adopt standards relating to the in-*
20 *formation transactions, data elements of*
21 *MedicarePlus and medicare information and security*
22 *described in subsections (a) and (b).*

23 “(2) *ADDITIONS AND MODIFICATIONS TO STAND-*
24 *ARDS.*—

1 “(A) *IN GENERAL.*—*The Secretary shall re-*
2 *view the standards adopted under this section*
3 *and shall adopt additional or modified stand-*
4 *ards, that have been developed or modified by a*
5 *standard setting organization, as determined ap-*
6 *propriate, but not more frequently than once*
7 *every 12 months. Any addition or modification*
8 *to such standards shall be completed in a man-*
9 *ner which minimizes the disruption and cost of*
10 *compliance.*

11 “(B) *ADDITIONS AND MODIFICATIONS TO*
12 *CODE SETS.*—

13 “(i) *IN GENERAL.*—*The Secretary shall*
14 *ensure that procedures exist for the routine*
15 *maintenance, testing, enhancement, and ex-*
16 *pansion of code sets.*

17 “(ii) *ADDITIONAL RULES.*—*If a code*
18 *set is modified under this paragraph, the*
19 *modified code set shall include instructions*
20 *on how data elements of MedicarePlus and*
21 *medicare information that were encoded*
22 *prior to the modification may be converted*
23 *or translated so as to preserve the informa-*
24 *tional value of the data elements that ex-*
25 *isted before the modification. Any modifica-*

1 *tion to a code set under this paragraph*
2 *shall be implemented in a manner that*
3 *minimizes the disruption and cost of com-*
4 *plying with such modification.*

5 *“(d) REQUIREMENTS FOR HEALTH PLANS.—*

6 *“(1) IN GENERAL.—If a person desires to con-*
7 *duct any of the information transactions described in*
8 *subsection (b)(1) with a health plan as a standard*
9 *transaction, the health plan shall conduct such stand-*
10 *ard transaction in a timely manner and the informa-*
11 *tion transmitted or received in connection with such*
12 *transaction shall be in the form of standard data ele-*
13 *ments of MedicarePlus and medicare information.*

14 *“(2) SATISFACTION OF REQUIREMENTS.—A*
15 *health plan may satisfy the requirement imposed on*
16 *such plan under paragraph (1) by directly transmit-*
17 *ting standard data elements of MedicarePlus and*
18 *medicare information or submitting nonstandard*
19 *data elements to a MedicarePlus and medicare infor-*
20 *mation network service for processing into standard*
21 *data elements and transmission.*

22 *“(3) TIMETABLES FOR COMPLIANCE WITH RE-*
23 *QUIREMENTS.—Not later than 24 months after the*
24 *date on which standards are adopted under sub-*
25 *sections (a) and (b) with respect to any type of infor-*

1 *mation transaction or data element of MedicarePlus*
2 *and medicare information or with respect to security,*
3 *a health plan shall comply with the requirements of*
4 *this section with respect to such transaction or data*
5 *element.*

6 “(4) COMPLIANCE WITH MODIFIED STAND-
7 *ARDS.—If the Secretary adopts a modified standard*
8 *under subsection (a) or (b), a health plan shall be re-*
9 *quired to comply with the modified standard at such*
10 *time as the Secretary determines appropriate taking*
11 *into account the time needed to comply due to the na-*
12 *ture and extent of the modification. However, the time*
13 *determined appropriate under the preceding sentence*
14 *shall be not earlier than the last day of the 180-day*
15 *period beginning on the date such modified standard*
16 *is adopted. The Secretary may extend the time for*
17 *compliance for small health plans, if the Secretary de-*
18 *termines such extension is appropriate.*

19 “(e) GENERAL PENALTY FOR FAILURE TO COMPLY
20 *WITH REQUIREMENTS AND STANDARDS.—*

21 “(1) GENERAL PENALTY.—

22 “(A) IN GENERAL.—*Except as provided in*
23 *paragraph (2), the Secretary shall impose on*
24 *any person that violates a requirement or stand-*
25 *ard—*

1 “(i) with respect to MedicarePlus and
2 medicare information transactions, data
3 elements of MedicarePlus and medicare in-
4 formation, or security imposed under sub-
5 section (a) or (b); or

6 “(ii) with respect to health plans im-
7 posed under subsection (d);

8 a penalty of not more than \$100 for each such
9 violation of a specific standard or requirement,
10 but the total amount imposed for all such viola-
11 tions of a specific standard or requirement dur-
12 ing the calendar year shall not exceed \$25,000.

13 “(B) PROCEDURES.—The provisions of sec-
14 tion 1128A (other than subsections (a) and (b)
15 and the second sentence of subsection (f)) shall
16 apply to the imposition of a civil money penalty
17 under this paragraph in the same manner as
18 such provisions apply to the imposition of a pen-
19 alty under such section 1128A.

20 “(C) DENIAL OF PAYMENT.—Except as pro-
21 vided in paragraph (2), the Secretary may deny
22 payment under this title for an item or service
23 furnished by a person if the person fails to com-
24 ply with an applicable requirement or standard

1 *for MedicarePlus and medicare information re-*
2 *lating to that item or service.*

3 “(2) *LIMITATIONS.—*

4 “(A) *NONCOMPLIANCE NOT DISCOVERED.—*

5 *A penalty may not be imposed under paragraph*
6 *(1) if it is established to the satisfaction of the*
7 *Secretary that the person liable for the penalty*
8 *did not know, and by exercising reasonable dili-*
9 *gence would not have known, that such person*
10 *failed to comply with the requirement or stand-*
11 *ard described in paragraph (1).*

12 “(B) *FAILURES DUE TO REASONABLE*
13 *CAUSE.—*

14 “(i) *IN GENERAL.—Except as provided*
15 *in clause (ii), a penalty may not be im-*
16 *posed under paragraph (1) if—*

17 “(I) *the failure to comply was due*
18 *to reasonable cause and not to willful*
19 *neglect; and*

20 “(II) *the failure to comply is cor-*
21 *rected during the 30-day period begin-*
22 *ning on the first date the person liable*
23 *for the penalty knew, or by exercising*
24 *reasonable diligence would have known,*
25 *that the failure to comply occurred.*

1 “(i) *EXTENSION OF PERIOD.*—

2 “(I) *NO PENALTY.*—*The period re-*
3 *ferred to in clause (i)(II) may be ex-*
4 *tended as determined appropriate by*
5 *the Secretary based on the nature and*
6 *extent of the failure to comply.*

7 “(II) *ASSISTANCE.*—*If the Sec-*
8 *retary determines that a health plan*
9 *failed to comply because such plan was*
10 *unable to comply, the Secretary may*
11 *provide technical assistance to such*
12 *plan during the period described in*
13 *clause (i)(II). Such assistance shall be*
14 *provided in any manner determined*
15 *appropriate by the Secretary.*

16 “(C) *REDUCTION.*—*In the case of a failure*
17 *to comply which is due to reasonable cause and*
18 *not to willful neglect, any penalty under para-*
19 *graph (1) that is not entirely waived under sub-*
20 *paragraph (B) may be waived to the extent that*
21 *the payment of such penalty would be excessive*
22 *relative to the compliance failure involved.*

23 “(f) *EFFECT ON STATE LAW.*—

24 “(1) *GENERAL EFFECT.*—

1 “(A) *GENERAL RULE.*—*Except as provided*
2 *in subparagraph (B), a provision, requirement,*
3 *or standard under this section shall supersede*
4 *any contrary provision of State law, including a*
5 *provision of State law that requires medical or*
6 *health plan records (including billing informa-*
7 *tion) to be maintained or transmitted in written*
8 *rather than electronic form.*

9 “(B) *EXCEPTIONS.*—*A provision, require-*
10 *ment, or standard under this section shall not*
11 *supersede a contrary provision of State law if*
12 *the Secretary determines that the provision of*
13 *State law should be continued for any reason,*
14 *including for reasons relating to prevention of*
15 *fraud and abuse or regulation of controlled sub-*
16 *stances.*

17 “(2) *PUBLIC HEALTH REPORTING.*—*Nothing in*
18 *this section shall be construed to invalidate or limit*
19 *the authority, power, or procedures established under*
20 *any law providing for the reporting of disease or in-*
21 *jury, child abuse, birth, or death, public health sur-*
22 *veillance, or public health investigation or interven-*
23 *tion.*

24 “(g) *MEDICAREPLUS AND MEDICARE INFORMATION*
25 *ADVISORY COMMITTEE.*—

1 “(1) *ESTABLISHMENT.*—*There is established a*
2 *committee to be known as the MedicarePlus and Med-*
3 *icare Information Advisory Committee (in this sub-*
4 *section referred to as the ‘committee’).*

5 “(2) *DUTIES.*—*The committee shall—*

6 “(A) *advise the Secretary in the develop-*
7 *ment of standards under this section; and*

8 “(B) *be generally responsible for advising*
9 *the Secretary and the Congress on the status and*
10 *the future of the MedicarePlus and medicare in-*
11 *formation network.*

12 “(3) *MEMBERSHIP.*—

13 “(A) *IN GENERAL.*—*The committee shall*
14 *consist of 9 members of whom—*

15 “(i) *3 shall be appointed by the Presi-*
16 *dent;*

17 “(ii) *3 shall be appointed by the*
18 *Speaker of the House of Representatives*
19 *after consultation with the minority leader*
20 *of the House of Representatives; and*

21 “(iii) *3 shall be appointed by the*
22 *President pro tempore of the Senate after*
23 *consultation with the minority leader of the*
24 *Senate.*

1 *The appointments of the members shall be made*
2 *not later than 60 days after the date of the en-*
3 *actment of this section. The President shall des-*
4 *ignate 1 member as the Chair.*

5 “(B) *EXPERTISE.*—*The membership of the*
6 *committee shall consist of individuals who are of*
7 *recognized standing and distinction in the areas*
8 *of information systems, information networking*
9 *and integration, consumer health, or health care*
10 *financial management, and who possess the dem-*
11 *onstrated capacity to discharge the duties im-*
12 *posed on the committee.*

13 “(C) *TERMS.*—*Each member of the commit-*
14 *tee shall be appointed for a term of 5 years, ex-*
15 *cept that the members first appointed shall serve*
16 *staggered terms such that the terms of not more*
17 *than 3 members expire at one time.*

18 “(D) *INITIAL MEETING.*—*Not later than 30*
19 *days after the date on which a majority of the*
20 *members have been appointed, the committee*
21 *shall hold its first meeting.*

22 “(4) *REPORTS.*—*Not later than 1 year after the*
23 *date of the enactment of this section, and annually*
24 *thereafter, the committee shall submit to Congress and*
25 *the Secretary a report regarding—*

1 “(A) *the extent to which entities using the*
2 *MedicarePlus and medicare information network*
3 *are meeting the standards adopted under this*
4 *section and working together to form an inte-*
5 *grated network that meets the needs of its users;*

6 “(B) *the extent to which such entities are*
7 *meeting the security standards established pursu-*
8 *ant to this section and the types of penalties as-*
9 *essed for noncompliance with such standards;*

10 “(C) *any problems that exist with respect to*
11 *implementation of the MedicarePlus and medi-*
12 *care information network; and*

13 “(D) *the extent to which timetables under*
14 *this section are being met.*

15 *Reports made under this subsection shall be made*
16 *available to health care providers, health plans, and*
17 *other entities that use the MedicarePlus and medicare*
18 *information network to exchange MedicarePlus and*
19 *medicare information.*

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

21 “(1) *CODE SET.—The term ‘code set’ means any*
22 *set of codes used for encoding data elements, such as*
23 *tables of terms, enrollment information, and encoun-*
24 *ter data.*

1 “(2) *COORDINATION OF BENEFITS.*—*The term*
2 *‘coordination of benefits’ means determining and co-*
3 *ordinating the financial obligations of health plans*
4 *when health care benefits are payable under such a*
5 *plan and under this title (including under a*
6 *MedicarePlus plan).*

7 “(3) *MEDICAREPLUS AND MEDICARE INFORMA-*
8 *TION.*—*The term ‘MedicarePlus and medicare infor-*
9 *mation’ means any information that relates to the en-*
10 *rollment of individuals under this title (including in-*
11 *formation relating to elections of MedicarePlus plans*
12 *under section 1851) and the provision of health bene-*
13 *fits (including benefits provided under such plans)*
14 *under this title.*

15 “(4) *MEDICAREPLUS AND MEDICARE INFORMA-*
16 *TION NETWORK.*—*The term ‘MedicarePlus and medi-*
17 *care information network’ means the MedicarePlus*
18 *and medicare information system that is formed*
19 *through the application of the requirements and*
20 *standards established under this section.*

21 “(5) *MEDICAREPLUS AND MEDICARE INFORMA-*
22 *TION NETWORK SERVICE.*—*The term ‘MedicarePlus*
23 *and medicare information network service’ means a*
24 *public or private entity that—*

1 “(A) processes or facilitates the processing
2 of nonstandard data elements of MedicarePlus
3 and medicare information into standard data
4 elements;

5 “(B) provides the means by which persons
6 may meet the requirements of this section; or

7 “(C) provides specific information process-
8 ing services.

9 “(6) *HEALTH PLAN*.—The term ‘health plan’
10 means a plan which provides, or pays the cost of,
11 health benefits. Such term includes the following, or
12 any combination thereof:

13 “(A) Part A or part B of this title, and in-
14 cludes a MedicarePlus plan.

15 “(B) The medicaid program under title XIX
16 and the MediGrant program under title XXI.

17 “(C) A medicare supplemental policy (as
18 defined in section 1882(g)(1)).

19 “(D) Worker’s compensation or similar in-
20 surance.

21 “(E) Automobile or automobile medical-
22 payment insurance.

23 “(F) A long-term care policy, other than a
24 fixed indemnity policy.

1 “(G) *The Federal Employees Health Benefit*
2 *Plan under chapter 89 of title 5, United States*
3 *Code.*

4 “(H) *An employee welfare benefit plan, as*
5 *defined in section 3(1) of the Employee Retirement*
6 *Income Security Act of 1974 (29 U.S.C.*
7 *1002(1)), but only to the extent the plan is estab-*
8 *lished or maintained for the purpose of provid-*
9 *ing health benefits.*

10 “(7) *INDIVIDUALLY IDENTIFIABLE*
11 *MEDICAREPLUS AND MEDICARE INFORMATION.—The*
12 *term ‘individually identifiable MedicarePlus and*
13 *medicare information’ means MedicarePlus and med-*
14 *icare enrollment information, including demographic*
15 *information collected from an individual, that—*

16 “(A) *is created or received by a health care*
17 *provider, health plan, employer, or MedicarePlus*
18 *and medicare information network service, and*

19 “(B) *identifies an individual.*

20 “(8) *STANDARD SETTING ORGANIZATION.—The*
21 *term ‘standard setting organization’ means a stand-*
22 *ard setting organization accredited by the American*
23 *National Standards Institute and includes the Na-*
24 *tional Council for Prescription Drug Program.*

1 “(9) *STANDARD TRANSACTION.*—*The term*
2 ‘*standard transaction*’ means, when referring to an
3 *information transaction or to data elements of*
4 *MedicarePlus and medicare information, any trans-*
5 *action that meets the requirements and implementa-*
6 *tion specifications adopted by the Secretary under*
7 *subsections (a) and (b).*

8 “*DEFINITIONS; MISCELLANEOUS PROVISIONS*

9 “*SEC. 1859. (a) DEFINITIONS RELATING TO*
10 *MEDICAREPLUS ORGANIZATIONS.*—*In this part—*

11 “(1) *MEDICAREPLUS ORGANIZATION.*—*The term*
12 ‘*MedicarePlus organization*’ means a public or pri-
13 *vate entity that is certified under section 1857 as*
14 *meeting the requirements and standards of this part*
15 *for such an organization.*

16 “(2) *PROVIDER-SPONSORED ORGANIZATION.*—
17 *The term ‘provider-sponsored organization’ is defined*
18 *in section 1853(e).*

19 “(3) *QUALIFIED ASSOCIATION SPONSOR.*—*The*
20 *term ‘qualified association sponsor’ means an associa-*
21 *tion, religious fraternal organization, or other organi-*
22 *zation (which may be a trade, industry, or profes-*
23 *sional association, a chamber of commerce, or a pub-*
24 *lic entity association) that the Secretary finds—*

25 “(A) *is organized for purposes other than to*
26 *market a health plan,*

1 “(B) may not condition its membership on
2 health status, health claims experience, receipt of
3 health care, medical history, or lack of evidence
4 of insurability of a potential member,

5 “(C) may not exclude a member or spouse
6 of a member from health plan coverage based on
7 factors described in clause (ii);

8 “(D) does not exist solely or principally for
9 the purpose of selling insurance,

10 “(E) has at least 1,000 individual members
11 or 200 employer members,

12 “(F) is a permanent entity which receives a
13 substantial proportion of its financial support
14 from active members; and

15 “(G) is not owned or controlled by an in-
16 surance company.

17 *Such term includes a subsidiary or corporation that*
18 *is wholly owned by one or more qualified organiza-*
19 *tions.*

20 “(4) *TAFT-HARTLEY SPONSOR.*—*The term ‘Taft-*
21 *Hartley sponsor’ means, in relation to a group health*
22 *plan that is established or maintained by two or more*
23 *employers or jointly by one or more employers and*
24 *one or more employee organizations, the association,*
25 *committee, joint board of trustees, or other similar*

1 *group of representatives of parties who establish or*
2 *maintain the plan.*

3 “(5) *UNION SPONSOR.*—*The term ‘union sponsor’*
4 *means an employee organization in relation to a*
5 *group health plan that is established or maintained*
6 *by the organization other than pursuant to a collec-*
7 *tive bargaining agreement.*

8 “(6) *EMPLOYER, ETC.*—*In this subsection and*
9 *section 1851(b), the terms ‘employer’, ‘employee orga-*
10 *nization’, and ‘group health plan’ have the meanings*
11 *given such terms for purposes of part 6 of subtitle B*
12 *of title I of the Employee Retirement Income Security*
13 *Act of 1974.*

14 “(b) *DEFINITIONS RELATING TO MEDICAREPLUS*
15 *PLANS.*—

16 “(1) *MEDICAREPLUS PLAN.*—*The term*
17 *‘MedicarePlus plan’ means health benefits coverage of-*
18 *fered under a policy, contract, or plan by a*
19 *MedicarePlus organization pursuant to and in ac-*
20 *cordance with a contract under section 1857.*

21 “(2) *HIGH DEDUCTIBLE PLAN.*—

22 “(A) *IN GENERAL.*—*The term ‘high deduct-*
23 *ible plan’ means a MedicarePlus plan that—*

24 “(i) *provides reimbursement for at*
25 *least the items and services described in sec-*

1 *tion 1852(a)(1) in a year but only after the*
2 *enrollee incurs countable expenses (as speci-*
3 *fied under the plan) equal to the amount of*
4 *a deductible (described in subparagraph*
5 *(B));*

6 *“(ii) counts as such expenses (for pur-*
7 *poses of such deductible) at least all*
8 *amounts that would have been payable*
9 *under parts A and B or by the enrollee if*
10 *the enrollee had elected to receive benefits*
11 *through the provisions of such parts; and*

12 *“(iii) provides, after such deductible is*
13 *met for a year and for all subsequent ex-*
14 *penses for benefits referred to in clause (i)*
15 *in the year, for a level of reimbursement*
16 *that is not less than—*

17 *“(I) 100 percent of such expenses,*

18 *or*

19 *“(II) 100 percent of the amounts*
20 *that would have been paid (without re-*
21 *gard to any deductibles or coinsurance)*
22 *under parts A and B with respect to*
23 *such expenses,*

24 *whichever is less.*

1 “(B) *DEDUCTIBLE.*—*The amount of deduct-*
2 *ible under a high deductible plan—*

3 “*(i) for contract year 1997 shall be not*
4 *more than \$6,000; and*

5 “*(ii) for a subsequent contract year*
6 *shall be not more than the maximum*
7 *amount of such deductible for the previous*
8 *contract year under this subparagraph in-*
9 *creased by the national average per capita*
10 *growth percentage under section 1854(c)(6)*
11 *for the year.*

12 *If the amount of the deductible under clause (ii)*
13 *is not a multiple of \$50, the amount shall be*
14 *rounded to the nearest multiple of \$50.*

15 “(3) *MEDICAREPLUS UNRESTRICTED FEE-FOR-*
16 *SERVICE PLAN.*—*The term ‘MedicarePlus unrestricted*
17 *fee-for-service plan’ means a MedicarePlus plan that*
18 *provides for coverage of benefits without restrictions*
19 *relating to utilization and without regard to whether*
20 *the provider has a contract or other arrangement with*
21 *the organization offering the plan for the provision of*
22 *such benefits.*

23 “(c) *OTHER REFERENCES TO OTHER TERMS.*—

1 “(1) *MEDICAREPLUS ELIGIBLE INDIVIDUAL*.—
2 *The term ‘MedicarePlus eligible individual’ is defined*
3 *in section 1851(a)(3).*

4 “(2) *MEDICAREPLUS PAYMENT AREA*.—*The term*
5 *‘MedicarePlus payment area’ is defined in section*
6 *1854(d).*

7 “(3) *NATIONAL AVERAGE PER CAPITA GROWTH*
8 *PERCENTAGE*.—*The ‘national average per capita*
9 *growth percentage’ is defined in section 1854(c)(6).*

10 “(4) *MONTHLY PREMIUM; NET MONTHLY PRE-*
11 *MIUM*.—*The terms ‘monthly premium’ and ‘net*
12 *monthly premium’ are defined in section 1855(a)(2).*

13 “(d) *COORDINATED ACUTE AND LONG-TERM CARE*
14 *BENEFITS UNDER A MEDICAREPLUS PLAN*.—*Nothing in*
15 *this part shall be construed as preventing a State from co-*
16 *ordinating benefits under its MediGrant program under*
17 *title XXI with those provided under a MedicarePlus plan*
18 *in a manner that assures continuity of a full-range of acute*
19 *care and long-term care services to poor elderly or disabled*
20 *individuals eligible for benefits under this title and under*
21 *such program.”.*

22 “(b) *CONFORMING REFERENCES TO PREVIOUS PART*
23 *C*.—*Any reference in law (in effect before the date of the*
24 *enactment of this Act) to part C of title XVIII of the Social*

1 *Security Act is deemed a reference to part D of such title*
2 *(as in effect after such date).*

3 (c) *USE OF INTERIM, FINAL REGULATIONS.*—*In order*
4 *to carry out the amendment made by subsection (a) in a*
5 *timely manner, the Secretary of Health and Human Serv-*
6 *ices may promulgate regulations that take effect on an in-*
7 *terim basis, after notice and pending opportunity for public*
8 *comment.*

9 (d) *ADVANCE DIRECTIVES.*—*Section 1866(f)(1) (42*
10 *U.S.C. 1395cc(f)(1)) is amended—*

11 (1) *by inserting “1853(g),” after “1833(s),” and*

12 (2) *by inserting “, MedicarePlus organization,”*
13 *after “provider of services”.*

14 (e) *CONFORMING AMENDMENT.*—*Section*
15 *1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by*
16 *inserting before the semicolon at the end the following: “and*
17 *in the case of hospitals to accept as payment in full for*
18 *inpatient hospital services that are emergency services (as*
19 *defined in section 1853(b)(4)) that are covered under this*
20 *title and are furnished to any individual enrolled under*
21 *part C with a MedicarePlus organization which does not*
22 *have a contract establishing payment amounts for services*
23 *furnished to members of the organization the amounts that*
24 *would be made as a payment in full under this title if the*
25 *individuals were not so enrolled”.*

1 (f) *SECRETARIAL SUBMISSION OF LEGISLATIVE PRO-*
2 *POSAL.*—*Not later than 90 days after the date of the enact-*
3 *ment of this Act, the Secretary of Health and Human Serv-*
4 *ices shall submit to the appropriate committees of Congress*
5 *a legislative proposal providing for such technical and con-*
6 *forming amendments in the law as are required by the pro-*
7 *visions of this chapter.*

8 **SEC. 8002. DUPLICATION AND COORDINATION OF MEDI-**
9 **CARE-RELATED PLANS.**

10 (a) *TREATMENT OF CERTAIN HEALTH INSURANCE*
11 *POLICIES AS NONDUPLICATIVE.*—

12 (1) *IN GENERAL.*—*Section 1882(d)(3)(A) (42*
13 *U.S.C. 1395ss(d)(3)(A)) is amended—*

14 (A) *by amending clause (i) to read as fol-*
15 *lows:*

16 “(i) *It is unlawful for a person to sell or issue to an*
17 *individual entitled to benefits under part A or enrolled*
18 *under part B of this title or electing a MedicarePlus plan*
19 *under section 1851—*

20 “(I) *a health insurance policy (other than a*
21 *medicare supplemental policy) with knowledge that*
22 *the policy duplicates health benefits to which the indi-*
23 *vidual is otherwise entitled under this title or title*
24 *XIX,*

1 “(II) in the case of an individual not electing a
2 *MedicarePlus* plan, a medicare supplemental policy
3 with knowledge that the individual is entitled to bene-
4 fits under another medicare supplemental policy, or

5 “(III) in the case of an individual electing a
6 *MedicarePlus* plan, a medicare supplemental policy
7 with knowledge that the policy duplicates health bene-
8 fits to which the individual is otherwise entitled
9 under this title or under another medicare supple-
10 mental policy.”;

11 (B) in clause (iii), by striking “clause (i)”
12 and inserting “clause (i)(II)”; and

13 (C) by adding at the end the following new
14 clauses:

15 “(iv) For purposes of this subparagraph a health in-
16 surance policy shall be considered to ‘duplicate’ benefits
17 under this title only when, under its terms, the policy pro-
18 vides specific reimbursement for identical items and serv-
19 ices to the extent paid for under this title, and a health
20 insurance policy providing for benefits which are payable
21 to or on behalf of an individual without regard to other
22 health benefit coverage of such individual is not considered
23 to ‘duplicate’ any health benefits under this title.

24 “(v) For purposes of this subparagraph, a health in-
25 surance policy (or a rider to an insurance contract which

1 *is not a health insurance policy), including a policy (such*
2 *as a qualified long-term care insurance contract described*
3 *in section 7702B(b) of the Internal Revenue Code of 1986,*
4 *as added by the Revenue Reconciliation Act of 1995) pro-*
5 *viding benefits for long-term care, nursing home care, home*
6 *health care, or community-based care, that coordinates*
7 *against or excludes items and services available or paid for*
8 *under this title and (for policies sold or issued after Janu-*
9 *ary 1, 1996) that discloses such coordination or exclusion*
10 *in the policy’s outline of coverage, is not considered to ‘du-*
11 *plicate’ health benefits under this title. For purposes of this*
12 *clause, the terms ‘coordinates’ and ‘coordination’ mean,*
13 *with respect to a policy in relation to health benefits under*
14 *this title, that the policy under its terms is secondary to,*
15 *or excludes from payment, items and services to the extent*
16 *available or paid for under this title.*

17 “(vi) A State may not impose, with respect to the sale
18 or issuance of a policy (or rider) that meets the require-
19 ments of this title pursuant to clause (iv) or (v) to an indi-
20 vidual entitled to benefits under part A or enrolled under
21 part B or enrolled under a MedicarePlus plan under part
22 C, any requirement based on the premise that such a policy
23 or rider duplicates health benefits to which the individual
24 is otherwise entitled under this title.”.

1 (2) *CONFORMING AMENDMENTS.—Section*
2 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) *is amended—*

3 (A) *in subparagraph (B), by inserting “(in-*
4 *cluding any MedicarePlus plan)” after “health*
5 *insurance policies”;*

6 (B) *in subparagraph (C)—*

7 (i) *by striking “with respect to (i)”*
8 *and inserting “with respect to”, and*

9 (ii) *by striking “; (ii) the sale” and all*
10 *that follows up to the period at the end; and*
11 (C) *by striking subparagraph (D).*

12 (3) *MEDICAREPLUS PLANS NOT TREATED AS*
13 *MEDICARE SUPPLEMENTARY POLICIES.—Section*
14 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) *is amended by*
15 *inserting “a MedicarePlus plan or” after “and does*
16 *not include”.*

17 (b) *ADDITIONAL RULES RELATING TO INDIVIDUALS*
18 *ENROLLED IN MEDICAREPLUS PLANS.—Section 1882 (42*
19 *U.S.C. 1395ss) is further amended by adding at the end*
20 *the following new subsection:*

21 “(u)(1) *Notwithstanding the previous provisions of*
22 *this section, this section shall not apply to the sale or issu-*
23 *ance of a medicare supplemental policy to an individual*
24 *who has elected to enroll in a MedicarePlus plan under sec-*
25 *tion 1851.*

1 “(2)(A) *It is unlawful for a person to sell or issue a*
 2 *policy described in subparagraph (B) to an individual with*
 3 *knowledge that the individual has in effect under section*
 4 *1851 an election of a high deductible plan.*

5 “(B) *A policy described in this subparagraph is a*
 6 *health insurance policy that provides for coverage of ex-*
 7 *penses that are otherwise required to be counted toward*
 8 *meeting the annual deductible amount provided under the*
 9 *high deductible plan.”.*

10 **SEC. 8003. TRANSITIONAL RULES FOR CURRENT MEDICARE**

11 **HMO PROGRAM.**

12 (a) *IN GENERAL.*—Section 1876 (42 U.S.C. 1395mm)
 13 *is amended—*

14 (1) *in subsection (c)(3)(A)(i), by striking “would*
 15 *result in failure to meet the requirements of sub-*
 16 *section (f) or”;*

17 (2) *by amending subsection (f) to read as follows:*

18 “(f)(1) *Except as provided in paragraph (3), the Sec-*
 19 *retary shall not enter into, renew, or continue any risk-*
 20 *sharing contract under this section with an eligible organi-*
 21 *zation for any contract year beginning on or after—*

22 “(A) *the date standards for MedicarePlus organi-*
 23 *zations and plans are first established under section*
 24 *1856(a) with respect to MedicarePlus organizations*

1 *that are insurers or health maintenance organiza-*
2 *tions, or*

3 “(B) *in the case of in the case of such an organi-*
4 *zation with such a contract in effect as of the date*
5 *such standards were first established, 1 year after*
6 *such date.*

7 “(2) *The Secretary shall not enter into, renew, or con-*
8 *tinue any risk-sharing contract under this section with an*
9 *eligible organization for any contract year beginning on or*
10 *after January 1, 2000.*

11 “(3) *An individual who is enrolled in part B only and*
12 *is enrolled in an eligible organization with a risk-sharing*
13 *contract under this section on December 31, 1996, may con-*
14 *tinue enrollment in such organization. Not later than July*
15 *1, 1996, the Secretary shall issue regulations relating to*
16 *such individuals and such organizations.*

17 “(4) *Notwithstanding subsection (a), the Secretary*
18 *shall provide that payment amounts under risk-sharing*
19 *contracts under this section for months in a year (beginning*
20 *with January 1996) shall be computed—*

21 “(A) *with respect to individuals entitled to bene-*
22 *fits under both parts A and B, by substituting pay-*
23 *ment rates under section 1854(a) for the payment*
24 *rates otherwise established under subsection 1876(a),*
25 *and*

1 “(B) with respect to individuals only entitled to
2 benefits under part B, by substituting an appropriate
3 proportion of such rates (reflecting the relative pro-
4 portion of payments under this title attributable to
5 such part) for the payment rates otherwise established
6 under subsection (a).

7 For purposes of carrying out this paragraph for payments
8 for months in 1996, the Secretary shall compute, announce,
9 and apply the payment rates under section 1854(a) (not-
10 withstanding any deadlines specified in such section) in as
11 timely a manner as possible and may (to the extent nec-
12 essary) provide for retroactive adjustment in payments
13 made under this section not in accordance with such
14 rates.”; and

15 (3) in subsection (i)(1)(C), by striking “(e), and
16 (f)” and inserting “and (e)”.

17 **CHAPTER 2—SPECIAL RULES FOR**
18 **MEDICAREPLUS MEDICAL SAVINGS AC-**
19 **COUNTS**

20 **SEC. 8011. MEDICAREPLUS MSA.**

21 (a) *IN GENERAL.*—Part III of subchapter B of chapter
22 1 of the Internal Revenue Code of 1986 (relating to amounts
23 specifically excluded from gross income) is amended by re-
24 designating section 137 as section 138 and by inserting
25 after section 136 the following new section:

1 **“SEC. 137. MEDICAREPLUS MSA.**

2 “(a) *EXCLUSION.*—*Gross income shall not include any*
3 *payment to the MedicarePlus MSA of an individual by the*
4 *Secretary of Health and Human Services under part C of*
5 *title XVIII of the Social Security Act.*

6 “(b) *MEDICAREPLUS MSA.*—*For purposes of this sec-*
7 *tion—*

8 “(1) *MEDICAREPLUS MSA.*—*The term*
9 *‘MedicarePlus MSA’ means a medical savings account*
10 *(as defined in section 222(d))—*

11 “(A) *which is designated as a MedicarePlus*
12 *MSA,*

13 “(B) *notwithstanding section 222(f)(5),*
14 *with respect to which no contribution may be*
15 *made other than—*

16 “(i) *a contribution made by the Sec-*
17 *retary of Health and Human Services pur-*
18 *suant to part C of title XVIII of the Social*
19 *Security Act, or*

20 “(ii) *a trustee-to-trustee transfer de-*
21 *scribed in subsection (c)(4), and*

22 “(C) *the governing instrument of which pro-*
23 *vides that trustee-to-trustee transfers described in*
24 *subsection (c)(4) may be made to and from such*
25 *account.*

1 “(2) *HIGH DEDUCTIBLE MSA.*—*The term ‘High*
2 *Deductible MedicarePlus MSA’ means a MedicarePlus*
3 *MSA which is established in connection with a high*
4 *deductible plan described in section 1859(b)(2) of the*
5 *Social Security Act.*

6 “(3) *REBATE MEDICAREPLUS MSA.*—*The term*
7 *‘Rebate MedicarePlus MSA’ means a MedicarePlus*
8 *MSA other than a High Deductible MedicarePlus*
9 *MSA.*

10 “(c) *SPECIAL RULES FOR DISTRIBUTIONS.*—

11 “(1) *DISTRIBUTIONS FOR QUALIFIED MEDICAL*
12 *EXPENSES.*—*In applying section 222—*

13 “(A) *to a High Deductible MedicarePlus*
14 *MSA, qualified medical expenses shall include*
15 *only expenses for medical care of the account*
16 *holder, and*

17 “(B) *to a Rebate MedicarePlus MSA, quali-*
18 *fied medical expenses shall include only expenses*
19 *for medical care of the account holder and of the*
20 *spouse of the account holder if such spouse is en-*
21 *titled to benefits under part A of title XVIII of*
22 *the Social Security Act and is enrolled under*
23 *part B of such title.*

1 “(2) *PENALTY FOR DISTRIBUTIONS FROM HIGH*
2 *DEDUCTIBLE MSA NOT USED FOR QUALIFIED MEDICAL*
3 *EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.*—

4 “(A) *IN GENERAL.*—*The tax imposed by*
5 *this chapter for any taxable year in which there*
6 *is a payment or distribution from a High De-*
7 *ductible MedicarePlus MSA which is not used ex-*
8 *clusively to pay the qualified medical expenses of*
9 *the account holder shall be increased by 50 per-*
10 *cent of the excess (if any) of—*

11 “(i) *the amount of such payment or*
12 *distribution, over*

13 “(ii) *the excess (if any) of—*

14 “(I) *the fair market value of the*
15 *assets in such MSA as of the close of*
16 *the calendar year preceding the cal-*
17 *endar year in which the taxable year*
18 *begins, over*

19 “(II) *an amount equal to 60 per-*
20 *cent of the deductible under the high*
21 *deductible plan covering the account*
22 *holder as of January 1 of the calendar*
23 *year in which the taxable year begins.*

1 Section 222(f)(2) shall not apply to any pay-
2 ment or distribution from a High Deductible
3 MedicarePlus MSA.

4 “(B) EXCEPTIONS.—Subparagraph (A)
5 shall not apply if the payment or distribution is
6 made on or after the date the account holder—

7 “(i) becomes disabled within the mean-
8 ing of section 72(m)(7), or

9 “(ii) dies.

10 “(C) SPECIAL RULES.—For purposes of sub-
11 paragraph (A)—

12 “(i) all High Deductible MedicarePlus
13 MSAs of the account holder shall be treated
14 as 1 account,

15 “(ii) all payments and distributions
16 not used exclusively to pay the qualified
17 medical expenses of the account holder dur-
18 ing any taxable year shall be treated as 1
19 distribution, and

20 “(iii) any distribution of property
21 shall be taken into account at its fair mar-
22 ket value on the date of the distribution.

23 “(3) WITHDRAWAL OF ERRONEOUS CONTRIBU-
24 TIONS.—Section 222(f)(2) and paragraph (2) of this
25 subsection shall not apply to any payment or dis-

1 *tribution from a MedicarePlus MSA to the Secretary*
2 *of Health and Human Services of an erroneous con-*
3 *tribution to such MSA and of the net income attrib-*
4 *utable to such contribution.*

5 “(4) *TRUSTEE-TO-TRUSTEE TRANSFERS.—Sec-*
6 *tion 222(f)(2) and paragraph (2) of this subsection*
7 *shall not apply to—*

8 “(A) *any trustee-to-trustee transfer from a*
9 *High Deductible MedicarePlus MSA of an ac-*
10 *count holder to another High Deductible*
11 *MedicarePlus MSA of such account holder, and*

12 “(B) *any trustee-to-trustee transfer from a*
13 *Rebate MedicarePlus MSA of an account holder*
14 *to another Rebate MedicarePlus MSA of such ac-*
15 *count holder.*

16 “(d) *SPECIAL RULES FOR TREATMENT OF ACCOUNT*
17 *AFTER DEATH OF ACCOUNT HOLDER.—Notwithstanding*
18 *section 222(f)(1)(B), if, as of the date of the death of the*
19 *account holder, the spouse of such holder is not entitled to*
20 *benefits under title XVIII of the Social Security Act, then*
21 *after the date of such death—*

22 “(1) *the Secretary of Health and Human Serv-*
23 *ices may not make any payments to such*
24 *MedicarePlus MSA, other than payments attributable*
25 *to periods before such date, and*

1 “(2) such MSA shall be treated as medical sav-
2 ings account which is not a MedicarePlus MSA.

3 “(e) REPORTS.—In the case of a MedicarePlus MSA,
4 the report under section 222(h)—

5 “(1) shall include the fair market value of the as-
6 sets in such MedicarePlus MSA as of the close of each
7 calendar year, and

8 “(2) shall be furnished to the account holder—

9 “(A) not later than January 31 of the cal-
10 endar year following the calendar year to which
11 such reports relate, and

12 “(B) in such manner as the Secretary pre-
13 scribes in such regulations.”

14 (b) CONFORMING AMENDMENTS.—

15 (1) The last sentence of section 4973(d) of such
16 Code, as added by section 11066(f)(4), is amended by
17 “or section 137(c)(3)” after “section 222(f)(3)”.

18 (2) The table of sections for part III of sub-
19 chapter B of chapter 1 of such Code is amended by
20 striking the last item and inserting the following:

 “Sec. 137. MedicarePlus MSA.

 “Sec. 138. Cross references to other Acts.”

21 (c) EFFECTIVE DATE.—The amendments made by this
22 section shall apply to taxable years beginning after Decem-
23 ber 31, 1996.

1 **SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS**
 2 **INCOME.**

3 (a) *IN GENERAL.*—Section 105 of the Internal Revenue
 4 Code of 1986 (relating to amounts received under accident
 5 and health plans) is amended by adding at the end the fol-
 6 lowing new subsection:

7 “(j) *CERTAIN REBATES UNDER SOCIAL SECURITY*
 8 *ACT.*—Gross income does not include any rebate received
 9 under part C of title XVIII of the Social Security Act dur-
 10 ing the taxable year.”

11 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 12 section (a) shall apply to amounts received after the date
 13 of the enactment of this Act.

14 **CHAPTER 3—MEDICARE PAYMENT REVIEW**
 15 **COMMISSION**

16 **SEC. 8021. MEDICARE PAYMENT REVIEW COMMISSION.**

17 (a) *IN GENERAL.*—Title XVIII is amended by insert-
 18 ing after section 1804 the following new section:

19 “*MEDICARE PAYMENT REVIEW COMMISSION*

20 “*SEC. 1805. (a) ESTABLISHMENT.*—There is hereby es-
 21 tablished the Medicare Payment Review Commission (in
 22 this section referred to as the ‘Commission’).

23 “(b) *DUTIES.*—

24 “(1) *GENERAL DUTIES AND REPORTS.*—

1 “(A) *IN GENERAL.*—*The Commission shall*
2 *review, and make recommendations to Congress*
3 *concerning, payment policies under this title.*

4 “(B) *ANNUAL REPORTS.*—*By not later than*
5 *June 1 of each year, the Commission shall sub-*
6 *mit a report to Congress containing an examina-*
7 *tion of issues affecting the medicare program, in-*
8 *cluding the implications of changes in health*
9 *care delivery in the United States and in the*
10 *market for health care services on the medicare*
11 *program.*

12 “(C) *ADDITIONAL REPORTS.*—*The Commis-*
13 *sion may submit to Congress from time to time*
14 *such other reports as the Commission deems ap-*
15 *propriate. By not later than May 1, 1997, the*
16 *Commission shall submit to Congress a report on*
17 *the matter described in paragraph (2)(G).*

18 “(D) *AVAILABILITY OF REPORTS.*—*The*
19 *Commission shall transmit to the Secretary a*
20 *copy of each report submitted to Congress under*
21 *this subsection and shall make such reports*
22 *available to the public.*

23 “(2) *SPECIFIC DUTIES RELATING TO*
24 *MEDICAREPLUS PROGRAM.*—*Specifically, the Commis-*

1 *sion shall review, with respect to the MedicarePlus*
2 *program under part C—*

3 *“(A) the methodology for making payment*
4 *to plans under such program, including the mak-*
5 *ing of differential payments and the distribution*
6 *of differential updates among different payment*
7 *areas;*

8 *“(B) the mechanisms used to adjust pay-*
9 *ments for risk and the need to adjust such mech-*
10 *anisms to take into account health status of bene-*
11 *ficiaries;*

12 *“(C) the implications of risk selection both*
13 *among MedicarePlus organizations and between*
14 *the MedicarePlus option and the Medicare fee-*
15 *for-service option;*

16 *“(D) in relation to payment under part C,*
17 *the development and implementation of mecha-*
18 *nisms to assure the quality of care for those en-*
19 *rolled with MedicarePlus organizations;*

20 *“(E) the impact of the MedicarePlus pro-*
21 *gram on access to care for medicare beneficiaries;*

22 *“(F) the feasibility and desirability of ex-*
23 *tending the rules for open enrollment that apply*
24 *during the transition period to apply in each*
25 *county during the first 2 years in which*

1 *MedicarePlus plans are made available to indi-*
2 *viduals residing in the county; and*

3 “(G) *other major issues in implementation*
4 *and further development of the MedicarePlus*
5 *program.*

6 “(3) *SPECIFIC DUTIES RELATING TO THE FEE-*
7 *FOR-SERVICE SYSTEM.—Specifically, the Commission*
8 *shall review payment policies under parts A and B,*
9 *including—*

10 “(A) *the factors affecting expenditures for*
11 *services in different sectors, including the process*
12 *for updating hospital, physician, and other fees,*

13 “(B) *payment methodologies; and*

14 “(C) *the impact of payment policies on ac-*
15 *cess and quality of care for medicare bene-*
16 *ficiaries.*

17 “(4) *SPECIFIC DUTIES RELATING TO INTER-*
18 *ACTION OF PAYMENT POLICIES WITH HEALTH CARE*
19 *DELIVERY GENERALLY.—Specifically the Commission*
20 *shall review the effect of payment policies under this*
21 *title on the delivery of health care services under this*
22 *title and assess the implications of changes in the*
23 *health services market on the medicare program.*

24 “(c) *MEMBERSHIP.—*

1 “(1) *NUMBER AND APPOINTMENT.*—*The Commis-*
2 *sion shall be composed of 15 members appointed by*
3 *the Comptroller General.*

4 “(2) *QUALIFICATIONS.*—*The membership of the*
5 *Commission shall include individuals with national*
6 *recognition for their expertise in health finance and*
7 *economics, actuarial science, health facility manage-*
8 *ment, health plans and integrated delivery systems,*
9 *reimbursement of health facilities, allopathic and os-*
10 *teopathic physicians, and other providers of services,*
11 *and other related fields, who provide a mix of dif-*
12 *ferent professionals, broad geographic representation,*
13 *and a balance between urban and rural representa-*
14 *tives, including physicians and other health profes-*
15 *sionals, employers, third party payors, individuals*
16 *skilled in the conduct and interpretation of bio-*
17 *medical, health services, and health economics re-*
18 *search and expertise in outcomes and effectiveness re-*
19 *search and technology assessment. Such membership*
20 *shall also include representatives of consumers and*
21 *the elderly.*

22 “(3) *TERMS.*—

23 “(A) *IN GENERAL.*—*The terms of members*
24 *of the Commission shall be for 3 years except*

1 *that the Comptroller General shall designate*
2 *staggered terms for the members first appointed.*

3 “(B) *VACANCIES.*—*Any member appointed*
4 *to fill a vacancy occurring before the expiration*
5 *of the term for which the member’s predecessor*
6 *was appointed shall be appointed only for the re-*
7 *mainder of that term. A member may serve after*
8 *the expiration of that member’s term until a suc-*
9 *cessor has taken office. A vacancy in the Com-*
10 *mission shall be filled in the manner in which*
11 *the original appointment was made.*

12 “(4) *COMPENSATION.*—*While serving on the busi-*
13 *ness of the Commission (including traveltime), a*
14 *member of the Commission shall be entitled to com-*
15 *penetration at the per diem equivalent of the rate pro-*
16 *vided for level IV of the Executive Schedule under sec-*
17 *tion 5315 of title 5, United States Code; and while so*
18 *servicing away from home and member’s regular place*
19 *of business, a member may be allowed travel expenses,*
20 *as authorized by the Chairman of the Commission.*
21 *Physicians serving as personnel of the Commission*
22 *may be provided a physician comparability allow-*
23 *ance by the Commission in the same manner as Gov-*
24 *ernment physicians may be provided such an allow-*
25 *ance by an agency under section 5948 of title 5, Unit-*

1 *ed States Code, and for such purpose subsection (i) of*
2 *such section shall apply to the Commission in the*
3 *same manner as it applies to the Tennessee Valley*
4 *Authority. For purposes of pay (other than pay of*
5 *members of the Commission) and employment bene-*
6 *fits, rights, and privileges, all personnel of the Com-*
7 *mission shall be treated as if they were employees of*
8 *the United States Senate.*

9 “(5) *CHAIRMAN; VICE CHAIRMAN.*—*The Comp-*
10 *troller General shall designate a member of the Com-*
11 *mission, at the time of appointment of the member,*
12 *as Chairman and a member as Vice Chairman for*
13 *that term of appointment.*

14 “(6) *MEETINGS.*—*The Commission shall meet at*
15 *the call of the Chairman.*

16 “(d) *DIRECTOR AND STAFF; EXPERTS AND CONSULT-*
17 *ANTS.*—*Subject to such review as the Comptroller General*
18 *deems necessary to assure the efficient administration of the*
19 *Commission, the Commission may—*

20 “(1) *employ and fix the compensation of an Ex-*
21 *ecutive Director (subject to the approval of the Comp-*
22 *troller General) and such other personnel as may be*
23 *necessary to carry out its duties (without regard to*
24 *the provisions of title 5, United States Code, govern-*
25 *ing appointments in the competitive service);*

1 “(2) seek such assistance and support as may be
2 required in the performance of its duties from appro-
3 priate Federal departments and agencies;

4 “(3) enter into contracts or make other arrange-
5 ments, as may be necessary for the conduct of the
6 work of the Commission (without regard to section
7 3709 of the Revised Statutes (41 U.S.C. 5));

8 “(4) make advance, progress, and other pay-
9 ments which relate to the work of the Commission;

10 “(5) provide transportation and subsistence for
11 persons serving without compensation; and

12 “(6) prescribe such rules and regulations as it
13 deems necessary with respect to the internal organiza-
14 tion and operation of the Commission.

15 “(e) POWERS.—

16 “(1) OBTAINING OFFICIAL DATA.—The Commis-
17 sion may secure directly from any department or
18 agency of the United States information necessary to
19 enable it to carry out this section. Upon request of the
20 Chairman, the head of that department or agency
21 shall furnish that information to the Commission on
22 an agreed upon schedule.

23 “(2) DATA COLLECTION.—In order to carry out
24 its functions, the Commission shall collect and assess
25 information to—

1 “(A) utilize existing information, both pub-
2 lished and unpublished, where possible, collected
3 and assessed either by its own staff or under
4 other arrangements made in accordance with
5 this section,

6 “(B) carry out, or award grants or con-
7 tracts for, original research and experimentation,
8 where existing information is inadequate, and

9 “(C) adopt procedures allowing any inter-
10 ested party to submit information for the Com-
11 mission’s use in making reports and rec-
12 ommendations.

13 “(3) ACCESS OF GAO TO INFORMATION.—The
14 Comptroller General shall have unrestricted access to
15 all deliberations, records, and data of the Commis-
16 sion, immediately upon request.

17 “(4) PERIODIC AUDIT.—The Commission shall be
18 subject to periodic audit by the General Accounting
19 Office.

20 “(5) OPEN MEETINGS, ETC.—Pursuant to regu-
21 lations of the Comptroller General, rules based upon
22 the requirements of section 10 of the Federal Advisory
23 Committee Act shall apply with respect to the Com-
24 mission.

25 “(f) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) *REQUEST FOR APPROPRIATIONS.*—*The*
2 *Commission shall submit requests for appropriations*
3 *in the same manner as the Comptroller General sub-*
4 *mits requests for appropriations, but amounts appro-*
5 *propriated for the Commission shall be separate from*
6 *amounts appropriated for the Comptroller General.*

7 “(2) *AUTHORIZATION.*—*There are authorized to*
8 *be appropriated such sums as may be necessary to*
9 *carry out the provisions of this section. 60 percent of*
10 *such appropriation shall be payable from the Federal*
11 *Hospital Insurance Trust Fund, and 40 percent of*
12 *such appropriation shall be payable from the Federal*
13 *Supplementary Medical Insurance Trust Fund.”*

14 **(b) ABOLITION OF PROPAC AND PPRC.**—

15 (1) *PROPAC.*—

16 (A) *IN GENERAL.*—*Section 1886(e) (42*
17 *U.S.C. 1395ww(e)) is amended—*

18 (i) *by striking paragraphs (2) and (6);*

19 *and*

20 (ii) *in paragraph (3), by striking “(A)*
21 *The Commission” and all that follows*
22 *through “(B)”.*

23 (B) *CONFORMING AMENDMENT.*—*Section*
24 *1862 (42 U.S.C. 1395y) is amended by striking*
25 *“Prospective Payment Assessment Commission”*

1 each place it appears in subsection (a)(1)(D)
2 and subsection (i) and inserting “Medicare Pay-
3 ment Review Commission”.

4 (2) PPRC.—

5 (A) *IN GENERAL.*—Title XVIII is amended
6 by striking section 1845 (42 U.S.C. 1395w–1).

7 (B) *CONFORMING AMENDMENTS.*—

8 (i) Section 1834(b)(2) (42 U.S.C.
9 1395m(b)(2)) is amended by striking “Phy-
10 sician Payment Review Commission” and
11 inserting “Medicare Payment Review Com-
12 mission”.

13 (ii) Section 1842(b) (42 U.S.C.
14 1395u(b)) is amended by striking “Physi-
15 cian Payment Review Commission” each
16 place it appears in paragraphs (9)(D) and
17 (14)(C)(i) and inserting “Medicare Pay-
18 ment Review Commission”.

19 (iii) Section 1848 (42 U.S.C. 1395w–
20 4) is amended by striking “Physician Pay-
21 ment Review Commission” and inserting
22 “Medicare Payment Review Commission”
23 each place it appears in paragraph
24 (2)(A)(ii), (2)(B)(iii), and (5) of subsection
25 (c), subsection (d)(2)(F), paragraphs (1)(B),

1 (3), and (4)(A) of subsection (f), and para-
2 graphs (6)(C) and (7)(C) of subsection (g).

3 (c) *EFFECTIVE DATE; TRANSITION.*—

4 (1) *IN GENERAL.*—*The Comptroller General shall*
5 *first provide for appointment of members to the Medi-*
6 *care Payment Review Commission (in this subsection*
7 *referred to as “MPRC”) by not later than September*
8 *30, 1996.*

9 (2) *TRANSITION.*—*Effective January 1, 1997, the*
10 *Prospective Payment Assessment Commission (in this*
11 *subsection referred to as “ProPAC”) and the Physi-*
12 *cian Payment Review Commission (in this subsection*
13 *referred to as “PPRC”) are terminated and amend-*
14 *ments made by subsection (b) shall become effective.*
15 *The Comptroller General, to the maximum extent fea-*
16 *sible, shall provide for the transfer to the MPRC of*
17 *assets and staff of ProPAC and PPRC, without any*
18 *loss of benefits or seniority by virtue of such transfers.*
19 *Fund balances available to the ProPAC or PPRC for*
20 *any period shall be available to the MPRC for such*
21 *period for like purposes.*

22 (3) *CONTINUING RESPONSIBILITY FOR RE-*
23 *PORTS.*—*The MPRC shall be responsible for the prep-*
24 *aration and submission of reports required by law to*
25 *be submitted (and which have not been submitted by*

1 *the date of establishment of the MPRC) by the*
2 *ProPAC and PPRC, and, for this purpose, any ref-*
3 *erence in law to either such Commission is deemed,*
4 *after the appointment of the MPRC, to refer to the*
5 *MPRC.*

6 **CHAPTER 4—TREATMENT OF HOSPITALS**
7 **WHICH PARTICIPATE IN PROVIDER-**
8 **SPONSORED ORGANIZATIONS**

9 **SEC. 8031. TREATMENT OF HOSPITALS WHICH PARTICIPATE**
10 **IN PROVIDER-SPONSORED ORGANIZATIONS.**

11 *(a) IN GENERAL.—Section 501 of the Internal Revenue*
12 *Code of 1986 (relating to exemption from tax on corpora-*
13 *tions, certain trusts, etc.), as amended by title XI, is amend-*
14 *ed by redesignating subsection (o) as subsection (p) and by*
15 *inserting after subsection (n) the following new subsection:*

16 *“(o) TREATMENT OF HOSPITALS PARTICIPATING IN*
17 *PROVIDER-SPONSORED ORGANIZATIONS.—An organization*
18 *shall not fail to be treated as organized and operated exclu-*
19 *sively for a charitable purpose for purposes of subsection*
20 *(c)(3) solely because a hospital which is owned and operated*
21 *by such organization participates in a provider-sponsored*
22 *organization (as defined in section 1853 of the Social Secu-*
23 *rity Act), whether or not the provider-sponsored organiza-*
24 *tion is exempt from tax. For purposes of subsection (c)(3),*
25 *any person with a material financial interest in such a*

1 *provider-sponsored organization shall be treated as a pri-*
 2 *vate shareholder or individual with respect to the hospital.”*

3 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 4 *section (a) shall take effect on the date of the enactment*
 5 *of this Act.*

6 ***Subtitle B—Health Care Fraud and***
 7 ***Abuse Prevention***

8 ***CHAPTER 1—FRAUD AND ABUSE CONTROL***
 9 ***PROGRAM***

10 ***SEC. 8101. FRAUD AND ABUSE CONTROL PROGRAM.***

11 (a) *ESTABLISHMENT OF PROGRAM.*—*Title XI (42*
 12 *U.S.C. 1301 et seq.) is amended by inserting after section*
 13 *1128B the following new section:*

14 “*FRAUD AND ABUSE CONTROL PROGRAM*

15 “*SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.*—

16 “(1) *IN GENERAL.*—*Not later than January 1,*
 17 *1996, the Secretary, acting through the Office of the*
 18 *Inspector General of the Department of Health and*
 19 *Human Services, and the Attorney General shall es-*
 20 *tablish a program—*

21 “(A) *to coordinate Federal, State, and local*
 22 *law enforcement programs to control fraud and*
 23 *abuse with respect to health plans,*

24 “(B) *to conduct investigations, audits, eval-*
 25 *uations, and inspections relating to the delivery*

1 *of and payment for health care in the United*
2 *States,*

3 “(C) *to facilitate the enforcement of the pro-*
4 *visions of sections 1128, 1128A, and 1128B and*
5 *other statutes applicable to health care fraud and*
6 *abuse,*

7 “(D) *to provide for the modification and es-*
8 *tablishment of safe harbors and to issue interpre-*
9 *tative rulings and special fraud alerts pursuant*
10 *to section 1128D, and*

11 “(E) *to provide for the reporting and disclo-*
12 *sure of certain final adverse actions against*
13 *health care providers, suppliers, or practitioners*
14 *pursuant to the data collection system established*
15 *under section 1128E.*

16 “(2) *COORDINATION WITH HEALTH PLANS.—In*
17 *carrying out the program established under para-*
18 *graph (1), the Secretary and the Attorney General*
19 *shall consult with, and arrange for the sharing of*
20 *data with representatives of health plans.*

21 “(3) *GUIDELINES.—*

22 “(A) *IN GENERAL.—The Secretary and the*
23 *Attorney General shall issue guidelines to carry*
24 *out the program under paragraph (1). The pro-*
25 *visions of sections 553, 556, and 557 of title 5,*

1 *United States Code, shall not apply in the issu-*
2 *ance of such guidelines.*

3 “(B) *INFORMATION GUIDELINES.*—

4 “(i) *IN GENERAL.*—*Such guidelines*
5 *shall include guidelines relating to the fur-*
6 *nishing of information by health plans, pro-*
7 *viders, and others to enable the Secretary*
8 *and the Attorney General to carry out the*
9 *program (including coordination with*
10 *health plans under paragraph (2)).*

11 “(ii) *CONFIDENTIALITY.*—*Such guide-*
12 *lines shall include procedures to assure that*
13 *such information is provided and utilized*
14 *in a manner that appropriately protects the*
15 *confidentiality of the information and the*
16 *privacy of individuals receiving health care*
17 *services and items.*

18 “(iii) *QUALIFIED IMMUNITY FOR PRO-*
19 *VIDING INFORMATION.*—*The provisions of*
20 *section 1157(a) (relating to limitation on*
21 *liability) shall apply to a person providing*
22 *information to the Secretary or the Attor-*
23 *ney General in conjunction with their per-*
24 *formance of duties under this section.*

1 “(4) *ENSURING ACCESS TO DOCUMENTATION.*—
2 *The Inspector General of the Department of Health*
3 *and Human Services is authorized to exercise such*
4 *authority described in paragraphs (3) through (9) of*
5 *section 6 of the Inspector General Act of 1978 (5*
6 *U.S.C. App.) as necessary with respect to the activi-*
7 *ties under the fraud and abuse control program estab-*
8 *lished under this subsection.*

9 “(5) *AUTHORITY OF INSPECTOR GENERAL.*—
10 *Nothing in this Act shall be construed to diminish the*
11 *authority of any Inspector General, including such*
12 *authority as provided in the Inspector General Act of*
13 *1978 (5 U.S.C. App.).*

14 “(b) *ADDITIONAL USE OF FUNDS BY INSPECTOR GEN-*
15 *ERAL.*—

16 “(1) *REIMBURSEMENTS FOR INVESTIGATIONS.*—
17 *The Inspector General of the Department of Health*
18 *and Human Services is authorized to receive and re-*
19 *tain for current use reimbursement for the costs of*
20 *conducting investigations and audits and for mon-*
21 *itoring compliance plans when such costs are ordered*
22 *by a court, voluntarily agreed to by the payer, or oth-*
23 *erwise.*

24 “(2) *CREDITING.*—*Funds received by the Inspec-*
25 *tor General under paragraph (1) as reimbursement*

1 for costs of conducting investigations shall be depos-
2 ited to the credit of the appropriation from which ini-
3 tially paid, or to appropriations for similar purposes
4 currently available at the time of deposit, and shall
5 remain available for obligation for 1 year from the
6 date of the deposit of such funds.

7 “(c) *HEALTH PLAN DEFINED.*—For purposes of this
8 section, the term ‘health plan’ means a plan or program
9 that provides health benefits, whether directly, through in-
10 surance, or otherwise, and includes—

11 “(1) a policy of health insurance;

12 “(2) a contract of a service benefit organization;

13 and

14 “(3) a membership agreement with a health
15 maintenance organization or other prepaid health
16 plan.”.

17 (b) *ESTABLISHMENT OF HEALTH CARE FRAUD AND*
18 *ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSUR-*
19 *ANCE TRUST FUND.*—Section 1817 (42 U.S.C. 1395i) is
20 amended by adding at the end the following new subsection:

21 “(k) *HEALTH CARE FRAUD AND ABUSE CONTROL AC-*
22 *COUNT.*—

23 “(1) *ESTABLISHMENT.*—There is hereby estab-
24 lished in the Trust Fund an expenditure account to
25 be known as the ‘Health Care Fraud and Abuse Con-

1 *trol Account’ (in this subsection referred to as the ‘Ac-*
2 *count’).*

3 “(2) *APPROPRIATED AMOUNTS TO TRUST*
4 *FUND.—*

5 “(A) *IN GENERAL.—There are hereby ap-*
6 *propriated to the Trust Fund—*

7 “(i) *such gifts and bequests as may be*
8 *made as provided in subparagraph (B);*

9 “(ii) *such amounts as may be depos-*
10 *ited in the Trust Fund as provided in sec-*
11 *tions 8141(b) and 8142(c) of the Medicare*
12 *Preservation Act of 1995, and title XI; and*

13 “(iii) *such amounts as are transferred*
14 *to the Trust Fund under subparagraph (C).*

15 “(B) *AUTHORIZATION TO ACCEPT GIFTS.—*
16 *The Trust Fund is authorized to accept on behalf*
17 *of the United States money gifts and bequests*
18 *made unconditionally to the Trust Fund, for the*
19 *benefit of the Account or any activity financed*
20 *through the Account.*

21 “(C) *TRANSFER OF AMOUNTS.—The Manag-*
22 *ing Trustee shall transfer to the Trust Fund,*
23 *under rules similar to the rules in section 9601*
24 *of the Internal Revenue Code of 1986, an amount*
25 *equal to the sum of the following:*

1 “(i) *Criminal fines recovered in cases*
2 *involving a Federal health care offense (as*
3 *defined in section 982(a)(6)(B) of title 18,*
4 *United States Code).*

5 “(ii) *Civil monetary penalties and as-*
6 *sessments imposed in health care cases, in-*
7 *cluding amounts recovered under titles XI,*
8 *XVIII, and XXI, and chapter 38 of title 31,*
9 *United States Code (except as otherwise*
10 *provided by law).*

11 “(iii) *Amounts resulting from the for-*
12 *feiture of property by reason of a Federal*
13 *health care offense.*

14 “(iv) *Penalties and damages obtained*
15 *and otherwise creditable to miscellaneous re-*
16 *ceipts of the general fund of the Treasury*
17 *obtained under sections 3729 through 3733*
18 *of title 31, United States Code (known as*
19 *the False Claims Act), in cases involving*
20 *claims related to the provision of health*
21 *care items and services (other than funds*
22 *awarded to a relator, for restitution or oth-*
23 *erwise authorized by law).*

24 “(3) *APPROPRIATED AMOUNTS TO ACCOUNT FOR*
25 *FRAUD AND ABUSE CONTROL PROGRAM, ETC.—*

1 “(A) *DEPARTMENTS OF HEALTH AND*
2 *HUMAN SERVICES AND JUSTICE.*—

3 “(i) *IN GENERAL.*—*There are hereby*
4 *appropriated to the Account from the Trust*
5 *Fund such sums as the Secretary and the*
6 *Attorney General certify are necessary to*
7 *carry out the purposes described in sub-*
8 *paragraph (C), to be available without fur-*
9 *ther appropriation, in an amount not to ex-*
10 *ceed—*

11 “(I) *for fiscal year 1996,*
12 *\$104,000,000, and*

13 “(II) *for each of the fiscal years*
14 *1997 through 2002, the limit for the*
15 *preceding fiscal year, increased by 15*
16 *percent; and*

17 “(III) *for each fiscal year after*
18 *fiscal year 2002, the limit for fiscal*
19 *year 2002.*

20 “(ii) *MEDICARE AND MEDIGRANT AC-*
21 *TIVITIES.*—*For each fiscal year, of the*
22 *amount appropriated in clause (i), the fol-*
23 *lowing amounts shall be available only for*
24 *the purposes of the activities of the Office of*
25 *the Inspector General of the Department of*

1 *Health and Human Services with respect to*
2 *the medicare and MediGrant programs—*

3 *“(I) for fiscal year 1996, not less*
4 *than \$60,000,000 and not more than*
5 *\$70,000,000;*

6 *“(II) for fiscal year 1997, not less*
7 *than \$80,000,000 and not more than*
8 *\$90,000,000;*

9 *“(III) for fiscal year 1998, not*
10 *less than \$90,000,000 and not more*
11 *than \$100,000,000;*

12 *“(IV) for fiscal year 1999, not less*
13 *than \$110,000,000 and not more than*
14 *\$120,000,000;*

15 *“(V) for fiscal year 2000, not less*
16 *than \$120,000,000 and not more than*
17 *\$130,000,000;*

18 *“(VI) for fiscal year 2001, not less*
19 *than \$140,000,000 and not more than*
20 *\$150,000,000; and*

21 *“(VII) for each fiscal year after*
22 *fiscal year 2001, not less than*
23 *\$150,000,000 and not more than*
24 *\$160,000,000.*

1 “(B) *FEDERAL BUREAU OF INVESTIGA-*
2 *TIONS.—There are hereby appropriated from the*
3 *general fund of the United States Treasury and*
4 *hereby appropriated to the Account for transfer*
5 *to the Federal Bureau of Investigations to carry*
6 *out the purposes described in subparagraph*
7 *(C)(i), to be available without further appropri-*
8 *ation—*

9 “(i) *for fiscal year 1996, \$47,000,000;*

10 “(ii) *for fiscal year 1997, \$56,000,000;*

11 “(iii) *for fiscal year 1998, \$66,000,000;*

12 “(iv) *for fiscal year 1999, \$76,000,000;*

13 “(v) *for fiscal year 2000, \$88,000,000;*

14 “(vi) *for fiscal year 2001,*
15 *\$101,000,000; and*

16 “(vii) *for each fiscal year after fiscal*
17 *year 2001, \$114,000,000.*

18 “(C) *USE OF FUNDS.—The purposes de-*
19 *scribed in this subparagraph are as follows:*

20 “(i) *GENERAL USE.—To cover the costs*
21 *(including equipment, salaries and benefits,*
22 *and travel and training) of the administra-*
23 *tion and operation of the health care fraud*
24 *and abuse control program established*

1 under section 1128C(a), including the costs
2 of—

3 “(I) prosecuting health care mat-
4 ters (through criminal, civil, and ad-
5 ministrative proceedings);

6 “(II) investigations;

7 “(III) financial and performance
8 audits of health care programs and op-
9 erations;

10 “(IV) inspections and other eval-
11 uations; and

12 “(V) provider and consumer edu-
13 cation regarding compliance with the
14 provisions of title XI.

15 “(i) *USE BY STATE MEDIGRANT FRAUD*
16 *CONTROL UNITS FOR INVESTIGATION REIM-*
17 *BURSEMENTS.—To reimburse the various State*
18 *MediGrant fraud control units established under*
19 *section 2134(a) upon request to the Secretary for*
20 *the costs of the activities authorized under sec-*
21 *tion 2134(b).*

22 “(4) *APPROPRIATED AMOUNTS TO ACCOUNT FOR*
23 *MEDICARE INTEGRITY PROGRAM.—*

24 “(A) *IN GENERAL.—There are hereby ap-*
25 *propriated to the Account from the Trust Fund*

1 *for each fiscal year such amounts as are nec-*
2 *essary to carry out the Medicare Integrity Pro-*
3 *gram under section 1893, subject to subpara-*
4 *graph (B) and to be available without further*
5 *appropriation.*

6 “(B) AMOUNTS SPECIFIED.—*The amount*
7 *appropriated under subparagraph (A) for a fis-*
8 *cal year is as follows:*

9 “(i) *For fiscal year 1996, such amount*
10 *shall be not less than \$430,000,000 and not*
11 *more than \$440,000,000.*

12 “(ii) *For fiscal year 1997, such*
13 *amount shall be not less than \$490,000,000*
14 *and not more than \$500,000,000.*

15 “(iii) *For fiscal year 1998, such*
16 *amount shall be not less than \$550,000,000*
17 *and not more than \$560,000,000.*

18 “(iv) *For fiscal year 1999, such*
19 *amount shall be not less than \$620,000,000*
20 *and not more than \$630,000,000.*

21 “(v) *For fiscal year 2000, such amount*
22 *shall be not less than \$670,000,000 and not*
23 *more than \$680,000,000.*

1 “(vi) For fiscal year 2001, such
2 amount shall be not less than \$690,000,000
3 and not more than \$700,000,000.

4 “(vii) For each fiscal year after fiscal
5 year 2001, such amount shall be not less
6 than \$710,000,000 and not more than
7 \$720,000,000.

8 “(5) ANNUAL REPORT.—The Secretary and the
9 Attorney General shall submit jointly an annual re-
10 port to Congress on the amount of revenue which is
11 generated and disbursed, and the justification for such
12 disbursements, by the Account in each fiscal year.”.

13 **SEC. 8102. MEDICARE INTEGRITY PROGRAM.**

14 (a) ESTABLISHMENT OF MEDICARE INTEGRITY PRO-
15 GRAM.—Title XVIII is amended by adding at the end the
16 following new section:

17 “MEDICARE INTEGRITY PROGRAM

18 “SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—
19 There is hereby established the Medicare Integrity Program
20 (in this section referred to as the ‘Program’) under which
21 the Secretary shall promote the integrity of the medicare
22 program by entering into contracts in accordance with this
23 section with eligible private entities to carry out the activi-
24 ties described in subsection (b).

25 “(b) ACTIVITIES DESCRIBED.—The activities described
26 in this subsection are as follows:

1 “(1) *Review of activities of providers of services*
2 *or other individuals and entities furnishing items and*
3 *services for which payment may be made under this*
4 *title (including skilled nursing facilities and home*
5 *health agencies), including medical and utilization*
6 *review and fraud review (employing similar stand-*
7 *ards, processes, and technologies used by private*
8 *health plans, including equipment and software tech-*
9 *nologies which surpass the capability of the equip-*
10 *ment and technologies used in the review of claims*
11 *under this title as of the date of the enactment of this*
12 *section).*

13 “(2) *Audit of cost reports.*

14 “(3) *Determinations as to whether payment*
15 *should not be, or should not have been, made under*
16 *this title by reason of section 1862(b), and recovery*
17 *of payments that should not have been made.*

18 “(4) *Education of providers of services, bene-*
19 *ficiaries, and other persons with respect to payment*
20 *integrity and benefit quality assurance issues.*

21 “(5) *Developing (and periodically updating) a*
22 *list of items of durable medical equipment in accord-*
23 *ance with section 1834(a)(15) which are subject to*
24 *prior authorization under such section.*

1 “(c) *ELIGIBILITY OF ENTITIES.*—*An entity is eligible*
2 *to enter into a contract under the Program to carry out*
3 *any of the activities described in subsection (b) if—*

4 “(1) *the entity has demonstrated capability to*
5 *carry out such activities;*

6 “(2) *in carrying out such activities, the entity*
7 *agrees to cooperate with the Inspector General of the*
8 *Department of Health and Human Services, the At-*
9 *torney General of the United States, and other law*
10 *enforcement agencies, as appropriate, in the inves-*
11 *tigation and deterrence of fraud and abuse in relation*
12 *to this title and in other cases arising out of such ac-*
13 *tivities;*

14 “(3) *the entity demonstrates to the Secretary*
15 *that the entity’s financial holdings, interests, or rela-*
16 *tionships will not interfere with its ability to perform*
17 *the functions to be required by the contract in an ef-*
18 *fective and impartial manner; and*

19 “(4) *the entity meets such other requirements as*
20 *the Secretary may impose.*

21 *In the case of the activity described in subsection (b)(5),*
22 *an entity shall be deemed to be eligible to enter into a con-*
23 *tract under the Program to carry out the activity if the*
24 *entity is a carrier with a contract in effect under section*
25 *1842.*

1 “(d) *PROCESS FOR ENTERING INTO CONTRACTS.*—The
2 Secretary shall enter into contracts under the Program in
3 accordance with such procedures as the Secretary shall by
4 regulation establish, except that such procedures shall in-
5 clude the following:

6 “(1) The Secretary shall determine the appro-
7 priate number of separate contracts which are nec-
8 essary to carry out the Program and the appropriate
9 times at which the Secretary shall enter into such
10 contracts.

11 “(2)(A) Except as provided in subparagraph
12 (B), the provisions of section 1153(e)(1) shall apply
13 to contracts and contracting authority under this sec-
14 tion.

15 “(B) Competitive procedures must be used when
16 entering into new contracts under this section, or at
17 any other time considered appropriate by the Sec-
18 retary, except that the Secretary may contract with
19 entities that are carrying out the activities described
20 in this section pursuant to agreements under section
21 1816 or contracts under section 1842 in effect on the
22 date of the enactment of this section.

23 “(3) A contract under this section may be re-
24 newed without regard to any provision of law requir-
25 ing competition if the contractor has met or exceeded

1 *the performance requirements established in the cur-*
2 *rent contract.*

3 “(e) *LIMITATION ON CONTRACTOR LIABILITY.—The*
4 *Secretary shall by regulation provide for the limitation of*
5 *a contractor’s liability for actions taken to carry out a con-*
6 *tract under the Program, and such regulation shall, to the*
7 *extent the Secretary finds appropriate, employ the same or*
8 *comparable standards and other substantive and procedural*
9 *provisions as are contained in section 1157.”.*

10 (b) *ELIMINATION OF FI AND CARRIER RESPONSIBIL-*
11 *ITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PRO-*
12 *GRAM.—*

13 (1) *RESPONSIBILITIES OF FISCAL*
14 *INTERMEDIARIES UNDER PART A.—Section 1816 (42*
15 *U.S.C. 1395h) is amended by adding at the end the*
16 *following new subsection:*

17 “(l) *No agency or organization may carry out (or re-*
18 *ceive payment for carrying out) any activity pursuant to*
19 *an agreement under this section to the extent that the activ-*
20 *ity is carried out pursuant to a contract under the Medicare*
21 *Integrity Program under section 1893.”.*

22 (2) *RESPONSIBILITIES OF CARRIERS UNDER*
23 *PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is*
24 *amended by adding at the end the following new*
25 *paragraph:*

1 “(6) No carrier may carry out (or receive payment for
2 carrying out) any activity pursuant to a contract under
3 this subsection to the extent that the activity is carried out
4 pursuant to a contract under the Medicare Integrity Pro-
5 gram under section 1893. The previous sentence shall not
6 apply with respect to the activity described in section
7 1893(b)(5) (relating to prior authorization of certain items
8 of durable medical equipment under section 1834(a)(15)).”.

9 **SEC. 8103. BENEFICIARY INCENTIVE PROGRAMS.**

10 (a) *CLARIFICATION OF REQUIREMENT TO PROVIDE*
11 *EXPLANATION OF MEDICARE BENEFITS.*—The Secretary of
12 Health and Human Services (in this section referred to as
13 the “Secretary”) shall provide an explanation of benefits
14 under the medicare program under title XVIII of the Social
15 Security Act with respect to each item or service for which
16 payment may be made under the program which is fur-
17 nished to an individual, without regard to whether or not
18 a deductible or coinsurance may be imposed against the in-
19 dividual with respect to the item or service.

20 (b) *PROGRAM TO COLLECT INFORMATION ON FRAUD*
21 *AND ABUSE.*—

22 (1) *ESTABLISHMENT OF PROGRAM.*—Not later
23 than 3 months after the date of the enactment of this
24 Act, the Secretary shall establish a program under
25 which the Secretary shall encourage individuals to re-

1 *port to the Secretary information on individuals and*
2 *entities who are engaging or who have engaged in*
3 *acts or omissions which constitute grounds for the im-*
4 *position of a sanction under section 1128, section*
5 *1128A, or section 1128B of the Social Security Act,*
6 *or who have otherwise engaged in fraud and abuse*
7 *against the medicare program for which there is a*
8 *sanction provided under law. The program shall dis-*
9 *courage provision of, and not consider, information*
10 *which is frivolous or otherwise not relevant or mate-*
11 *rial to the imposition of such a sanction.*

12 (2) *PAYMENT OF PORTION OF AMOUNTS COL-*
13 *LECTED.—If an individual reports information to the*
14 *Secretary under the program established under para-*
15 *graph (1) which serves as the basis for the collection*
16 *by the Secretary or the Attorney General of any*
17 *amount of at least \$100 (other than any amount paid*
18 *as a penalty under section 1128B of the Social Secu-*
19 *rity Act), the Secretary may pay a portion of the*
20 *amount collected to the individual (under procedures*
21 *similar to those applicable under section 7623 of the*
22 *Internal Revenue Code of 1986 to payments to indi-*
23 *viduals providing information on violations of such*
24 *Code).*

1 (c) *PROGRAM TO COLLECT INFORMATION ON PROGRAM*
2 *EFFICIENCY.*—

3 (1) *ESTABLISHMENT OF PROGRAM.*—*Not later*
4 *than 3 months after the date of the enactment of this*
5 *Act, the Secretary shall establish a program under*
6 *which the Secretary shall encourage individuals to*
7 *submit to the Secretary suggestions on methods to im-*
8 *prove the efficiency of the medicare program.*

9 (2) *PAYMENT OF PORTION OF PROGRAM SAV-*
10 *INGS.*—*If an individual submits a suggestion to the*
11 *Secretary under the program established under para-*
12 *graph (1) which is adopted by the Secretary and*
13 *which results in savings to the program, the Secretary*
14 *may make a payment to the individual of such*
15 *amount as the Secretary considers appropriate.*

16 ***SEC. 8104. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD***
17 ***AND ABUSE SANCTIONS TO FRAUD AND***
18 ***ABUSE AGAINST FEDERAL HEALTH CARE***
19 ***PROGRAMS.***

20 (a) *IN GENERAL.*—*Section 1128B (42 U.S.C. 1320a-*
21 *7b) is amended as follows:*

22 (1) *In the heading, by striking “MEDICARE OR*
23 *STATE HEALTH CARE PROGRAMS” and inserting*
24 *“FEDERAL HEALTH CARE PROGRAMS”.*

1 (2) *In subsection (a)(1), by striking “a program*
2 *under title XVIII or a State health care program (as*
3 *defined in section 1128(h))” and inserting “a Federal*
4 *health care program”.*

5 (3) *In subsection (a)(5), by striking “a program*
6 *under title XVIII or a State health care program”*
7 *and inserting “a Federal health care program”.*

8 (4) *In the second sentence of subsection (a)—*

9 (A) *by striking “a State plan approved*
10 *under title XIX” and inserting “a Federal health*
11 *care program”, and*

12 (B) *by striking “the State may at its option*
13 *(notwithstanding any other provision of that*
14 *title or of such plan)” and inserting “the admin-*
15 *istrator of such program may at its option (not-*
16 *withstanding any other provision of such pro-*
17 *gram)”.*

18 (5) *In subsection (b), by striking “title XVIII or*
19 *a State health care program” each place it appears*
20 *and inserting “a Federal health care program”.*

21 (6) *In subsection (c), by inserting “(as defined*
22 *in section 1128(h))” after “a State health care pro-*
23 *gram”.*

24 (7) *By adding at the end the following new sub-*
25 *section:*

1 *Register soliciting proposals, which will be ac-*
2 *cepted during a 60-day period, for—*

3 “(i) *modifications to existing safe har-*
4 *bors issued pursuant to section 14(a) of the*
5 *Medicare and Medicaid Patient and Pro-*
6 *gram Protection Act of 1987 (42 U.S.C.*
7 *1320a–7b note);*

8 “(ii) *additional safe harbors specifying*
9 *payment practices that shall not be treated*
10 *as a criminal offense under section*
11 *1128B(b) and shall not serve as the basis*
12 *for an exclusion under section 1128(b)(7);*

13 “(iii) *interpretive rulings to be issued*
14 *pursuant to subsection (b); and*

15 “(iv) *special fraud alerts to be issued*
16 *pursuant to subsection (c).*

17 “(B) *PUBLICATION OF PROPOSED MODIFICA-*
18 *TIONS AND PROPOSED ADDITIONAL SAFE HAR-*
19 *BORS.—After considering the proposals described*
20 *in clauses (i) and (ii) of subparagraph (A), the*
21 *Secretary, in consultation with the Attorney*
22 *General, shall publish in the Federal Register*
23 *proposed modifications to existing safe harbors*
24 *and proposed additional safe harbors, if appro-*
25 *priate, with a 60-day comment period. After*

1 *considering any public comments received dur-*
2 *ing this period, the Secretary shall issue final*
3 *rules modifying the existing safe harbors and es-*
4 *tablishing new safe harbors, as appropriate.*

5 “(C) *REPORT.—The Inspector General of*
6 *the Department of Health and Human Services*
7 *(in this section referred to as the ‘Inspector Gen-*
8 *eral’)* shall, in an annual report to Congress or
9 *as part of the year-end semiannual report re-*
10 *quired by section 5 of the Inspector General Act*
11 *of 1978 (5 U.S.C. App.), describe the proposals*
12 *received under clauses (i) and (ii) of subpara-*
13 *graph (A) and explain which proposals were in-*
14 *cluded in the publication described in subpara-*
15 *graph (B), which proposals were not included in*
16 *that publication, and the reasons for the rejection*
17 *of the proposals that were not included.*

18 “(2) *CRITERIA FOR MODIFYING AND ESTABLISH-*
19 *ING SAFE HARBORS.—In modifying and establishing*
20 *safe harbors under paragraph (1)(B), the Secretary*
21 *may consider the extent to which providing a safe*
22 *harbor for the specified payment practice may result*
23 *in any of the following:*

24 “(A) *An increase or decrease in access to*
25 *health care services.*

1 “(B) An increase or decrease in the quality
2 of health care services.

3 “(C) An increase or decrease in patient free-
4 dom of choice among health care providers.

5 “(D) An increase or decrease in competition
6 among health care providers.

7 “(E) An increase or decrease in the ability
8 of health care facilities to provide services in
9 medically underserved areas or to medically un-
10 derserved populations.

11 “(F) An increase or decrease in the cost to
12 Federal health care programs (as defined in sec-
13 tion 1128B(f)).

14 “(G) An increase or decrease in the poten-
15 tial overutilization of health care services.

16 “(H) The existence or nonexistence of any
17 potential financial benefit to a health care pro-
18 fessional or provider which may vary based on
19 their decisions of—

20 “(i) whether to order a health care
21 item or service; or

22 “(ii) whether to arrange for a referral
23 of health care items or services to a particu-
24 lar practitioner or provider.

1 “(I) Any other factors the Secretary deems
2 appropriate in the interest of preventing fraud
3 and abuse in Federal health care programs (as
4 so defined).

5 “(b) INTERPRETIVE RULINGS.—

6 “(1) IN GENERAL.—

7 “(A) REQUEST FOR INTERPRETIVE RUL-
8 ING.—Any person may present, at any time, a
9 request to the Inspector General for a statement
10 of the Inspector General’s current interpretation
11 of the meaning of a specific aspect of the appli-
12 cation of sections 1128A and 1128B (in this sec-
13 tion referred to as an ‘interpretive ruling’).

14 “(B) ISSUANCE AND EFFECT OF INTERPRE-
15 TIVE RULING.—

16 “(i) IN GENERAL.—If appropriate, the
17 Inspector General shall in consultation with
18 the Attorney General, issue an interpretive
19 ruling not later than 90 days after receiv-
20 ing a request described in subparagraph
21 (A). Interpretive rulings shall not have the
22 force of law and shall be treated as an in-
23 terpretive rule within the meaning of sec-
24 tion 553(b) of title 5, United States Code.
25 All interpretive rulings issued pursuant to

1 *this clause shall be published in the Federal*
2 *Register or otherwise made available for*
3 *public inspection.*

4 “(i) *REASONS FOR DENIAL.*—*If the*
5 *Inspector General does not issue an inter-*
6 *pretive ruling in response to a request de-*
7 *scribed in subparagraph (A), the Inspector*
8 *General shall notify the requesting party of*
9 *such decision not later than 60 days after*
10 *receiving such a request and shall identify*
11 *the reasons for such decision.*

12 “(2) *CRITERIA FOR INTERPRETIVE RULINGS.*—

13 “(A) *IN GENERAL.*—*In determining whether*
14 *to issue an interpretive ruling under paragraph*
15 *(1)(B), the Inspector General may consider—*

16 “(i) *whether and to what extent the re-*
17 *quest identifies an ambiguity within the*
18 *language of the statute, the existing safe*
19 *harbors, or previous interpretive rulings;*
20 *and*

21 “(ii) *whether the subject of the re-*
22 *quested interpretive ruling can be ade-*
23 *quately addressed by interpretation of the*
24 *language of the statute, the existing safe*
25 *harbor rules, or previous interpretive rul-*

1 *ings, or whether the request would require a*
2 *substantive ruling (as defined in section*
3 *552 of title 5, United States Code) not au-*
4 *thorized under this subsection.*

5 *“(B) NO RULINGS ON FACTUAL ISSUES.—*

6 *The Inspector General shall not give an interpre-*
7 *tive ruling on any factual issue, including the*
8 *intent of the parties or the fair market value of*
9 *particular leased space or equipment.*

10 *“(c) SPECIAL FRAUD ALERTS.—*

11 *“(1) IN GENERAL.—*

12 *“(A) REQUEST FOR SPECIAL FRAUD*
13 *ALERTS.—Any person may present, at any time,*
14 *a request to the Inspector General for a notice*
15 *which informs the public of practices which the*
16 *Inspector General considers to be suspect or of*
17 *particular concern under the medicare program*
18 *or a State health care program, as defined in*
19 *section 1128(h) (in this subsection referred to as*
20 *a ‘special fraud alert’).*

21 *“(B) ISSUANCE AND PUBLICATION OF SPE-*
22 *CIAL FRAUD ALERTS.—Upon receipt of a request*
23 *described in subparagraph (A), the Inspector*
24 *General shall investigate the subject matter of the*
25 *request to determine whether a special fraud*

1 *alert should be issued. If appropriate, the Inspec-*
 2 *tor General shall issue a special fraud alert in*
 3 *response to the request. All special fraud alerts*
 4 *issued pursuant to this subparagraph shall be*
 5 *published in the Federal Register.*

6 “(2) *CRITERIA FOR SPECIAL FRAUD ALERTS.—In*
 7 *determining whether to issue a special fraud alert*
 8 *upon a request described in paragraph (1), the In-*
 9 *pector General may consider—*

10 “(A) *whether and to what extent the prac-*
 11 *tices that would be identified in the special fraud*
 12 *alert may result in any of the consequences de-*
 13 *scribed in subsection (a)(2); and*

14 “(B) *the volume and frequency of the con-*
 15 *duct that would be identified in the special fraud*
 16 *alert.”.*

17 **CHAPTER 2—REVISIONS TO CURRENT**
 18 **SANCTIONS FOR FRAUD AND ABUSE**

19 **SEC. 8111. MANDATORY EXCLUSION FROM PARTICIPATION**
 20 **IN MEDICARE AND STATE HEALTH CARE PRO-**
 21 **GRAMS.**

22 (a) *INDIVIDUAL CONVICTED OF FELONY RELATING TO*
 23 *HEALTH CARE FRAUD.—*

1 (1) *IN GENERAL.*—Section 1128(a) (42 U.S.C.
2 1320a–7(a)) is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(3) *FELONY CONVICTION RELATING TO HEALTH*
5 *CARE FRAUD.*—Any individual or entity that has
6 been convicted after the date of the enactment of the
7 Medicare Preservation Act of 1995, under Federal or
8 State law, in connection with the delivery of a health
9 care item or service or with respect to any act or
10 omission in a health care program (other than those
11 specifically described in paragraph (1)) operated by
12 or financed in whole or in part by any Federal,
13 State, or local government agency, of a criminal of-
14 fense consisting of a felony relating to fraud, theft,
15 embezzlement, breach of fiduciary responsibility, or
16 other financial misconduct.”.

17 (2) *CONFORMING AMENDMENT.*—Paragraph (1)
18 of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended
19 to read as follows:

20 “(1) *CONVICTION RELATING TO FRAUD.*—Any in-
21 dividual or entity that has been convicted after the
22 date of the enactment of the Medicare Preservation
23 Act of 1995, under Federal or State law—

24 “(A) of a criminal offense consisting of a
25 misdemeanor relating to fraud, theft, embezzle-

1 *ment, breach of fiduciary responsibility, or other*
2 *financial misconduct—*

3 “(i) *in connection with the delivery of*
4 *a health care item or service, or*

5 “(ii) *with respect to any act or omis-*
6 *sion in a health care program (other than*
7 *those specifically described in subsection*
8 *(a)(1)) operated by or financed in whole or*
9 *in part by any Federal, State, or local gov-*
10 *ernment agency; or*

11 “(B) *of a criminal offense relating to fraud,*
12 *theft, embezzlement, breach of fiduciary respon-*
13 *sibility, or other financial misconduct with re-*
14 *spect to any act or omission in a program (other*
15 *than a health care program) operated by or fi-*
16 *nanced in whole or in part by any Federal,*
17 *State, or local government agency.”.*

18 ***(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO***
19 ***CONTROLLED SUBSTANCE.—***

20 ***(1) IN GENERAL.—Section 1128(a) (42 U.S.C.***
21 ***1320a–7(a)), as amended by subsection (a), is amend-***
22 ***ed by adding at the end the following new paragraph:***

23 ***“(4) FELONY CONVICTION RELATING TO CON-***
24 ***TROLLED SUBSTANCE.—Any individual or entity that***
25 ***has been convicted after the date of the enactment of***

1 *that a shorter period is appropriate because of mitigating*
 2 *circumstances or that a longer period is appropriate be-*
 3 *cause of aggravating circumstances.*

4 “(E) *In the case of an exclusion of an individual or*
 5 *entity under subsection (b)(4) or (b)(5), the period of the*
 6 *exclusion shall not be less than the period during which the*
 7 *individual’s or entity’s license to provide health care is re-*
 8 *voked, suspended, or surrendered, or the individual or the*
 9 *entity is excluded or suspended from a Federal or State*
 10 *health care program.*

11 “(F) *In the case of an exclusion of an individual or*
 12 *entity under subsection (b)(6)(B), the period of the exclu-*
 13 *sion shall be not less than 1 year.”.*

14 **SEC. 8113. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH**
 15 **OWNERSHIP OR CONTROL INTEREST IN**
 16 **SANCTIONED ENTITIES.**

17 *Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by*
 18 *adding at the end the following new paragraph:*

19 “(15) *INDIVIDUALS CONTROLLING A SANCTIONED*
 20 *ENTITY.—(A) Any individual—*

21 “(i) *who has a direct or indirect ownership*
 22 *or control interest in a sanctioned entity and*
 23 *who knows or should know (as defined in section*
 24 *1128A(i)(6)) of the action constituting the basis*

1 *for the conviction or exclusion described in sub-*
 2 *paragraph (B); or*

3 *“(i) who is an officer or managing em-*
 4 *ployee (as defined in section 1126(b)) of such an*
 5 *entity.*

6 *“(B) For purposes of subparagraph (A), the term*
 7 *‘sanctioned entity’ means an entity—*

8 *“(i) that has been convicted of any offense*
 9 *described in subsection (a) or in paragraph (1),*
 10 *(2), or (3) of this subsection; or*

11 *“(ii) that has been excluded from participa-*
 12 *tion under a program under title XVIII or under*
 13 *a State health care program.”.*

14 ***SEC. 8114. SANCTIONS AGAINST PRACTITIONERS AND PER-***
 15 ***SONS FOR FAILURE TO COMPLY WITH STATU-***
 16 ***TORY OBLIGATIONS.***

17 ***(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTI-***
 18 ***TIONERS AND PERSONS FAILING TO MEET STATUTORY OB-***
 19 ***LIGATIONS.—***

20 ***(1) IN GENERAL.—****The second sentence of section*
 21 ***1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by***
 22 ***striking “may prescribe)” and inserting “may pre-***
 23 ***scribe, except that such period may not be less than***
 24 ***1 year)”.***

1 (2) *CONFORMING AMENDMENT.*—Section
 2 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by
 3 striking “shall remain” and inserting “shall (subject
 4 to the minimum period specified in the second sen-
 5 tence of paragraph (1)) remain”.

6 (b) *REPEAL OF “UNWILLING OR UNABLE” CONDITION*
 7 *FOR IMPOSITION OF SANCTION.*—Section 1156(b)(1) (42
 8 U.S.C. 1320c–5(b)(1)) is amended—

9 (1) in the second sentence, by striking “and de-
 10 termines” and all that follows through “such obliga-
 11 tions,”; and

12 (2) by striking the third sentence.

13 **SEC. 8115. INTERMEDIATE SANCTIONS FOR MEDICARE**
 14 **HEALTH MAINTENANCE ORGANIZATIONS.**

15 (a) *APPLICATION OF INTERMEDIATE SANCTIONS FOR*
 16 *ANY PROGRAM VIOLATIONS.*—

17 (1) *IN GENERAL.*—Section 1876(i)(1) (42 U.S.C.
 18 1395mm(i)(1)) is amended by striking “the Secretary
 19 may terminate” and all that follows and inserting
 20 “in accordance with procedures established under
 21 paragraph (9), the Secretary may at any time termi-
 22 nate any such contract or may impose the intermedi-
 23 ate sanctions described in paragraph (6)(B) or (6)(C)
 24 (whichever is applicable) on the eligible organization
 25 if the Secretary determines that the organization—

1 “(A) has failed substantially to carry out
2 the contract;

3 “(B) is carrying out the contract in a man-
4 ner substantially inconsistent with the efficient
5 and effective administration of this section; or

6 “(C) no longer substantially meets the ap-
7 plicable conditions of subsections (b), (c), (e),
8 and (f).”.

9 (2) *OTHER INTERMEDIATE SANCTIONS FOR MIS-*
10 *CELLANEOUS PROGRAM VIOLATIONS.*—Section
11 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by
12 adding at the end the following new subparagraph:

13 “(C) In the case of an eligible organization for which
14 the Secretary makes a determination under paragraph (1)
15 the basis of which is not described in subparagraph (A),
16 the Secretary may apply the following intermediate sanc-
17 tions:

18 “(i) Civil money penalties of not more than
19 \$25,000 for each determination under paragraph (1)
20 if the deficiency that is the basis of the determination
21 has directly adversely affected (or has the substantial
22 likelihood of adversely affecting) an individual cov-
23 ered under the organization’s contract.

24 “(ii) Civil money penalties of not more than
25 \$10,000 for each week beginning after the initiation

1 of procedures by the Secretary under paragraph (9)
2 during which the deficiency that is the basis of a de-
3 termination under paragraph (1) exists.

4 “(iii) Suspension of enrollment of individuals
5 under this section after the date the Secretary notifies
6 the organization of a determination under paragraph
7 (1) and until the Secretary is satisfied that the defi-
8 ciency that is the basis for the determination has been
9 corrected and is not likely to recur.”.

10 (3) *PROCEDURES FOR IMPOSING SANCTIONS.*—
11 Section 1876(i) (42 U.S.C. 1395mm(i)) is amended
12 by adding at the end the following new paragraph:

13 “(9) The Secretary may terminate a contract with an
14 eligible organization under this section or may impose the
15 intermediate sanctions described in paragraph (6) on the
16 organization in accordance with formal investigation and
17 compliance procedures established by the Secretary under
18 which—

19 “(A) the Secretary first provides the organiza-
20 tion with the reasonable opportunity to develop and
21 implement a corrective action plan to correct the defi-
22 ciencies that were the basis of the Secretary’s deter-
23 mination under paragraph (1) and the organization
24 fails to develop or implement such a plan;

1 “(B) in deciding whether to impose sanctions,
2 the Secretary considers aggravating factors such as
3 whether an organization has a history of deficiencies
4 or has not taken action to correct deficiencies the Sec-
5 retary has brought to the organization’s attention;

6 “(C) there are no unreasonable or unnecessary
7 delays between the finding of a deficiency and the im-
8 position of sanctions; and

9 “(D) the Secretary provides the organization
10 with reasonable notice and opportunity for hearing
11 (including the right to appeal an initial decision) be-
12 fore imposing any sanction or terminating the con-
13 tract.”.

14 (4) CONFORMING AMENDMENTS.—Section
15 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is
16 amended by striking the second sentence.

17 (b) AGREEMENTS WITH PEER REVIEW ORGANIZA-
18 TIONS.—Section 1876(i)(7)(A) (42 U.S.C.
19 1395mm(i)(7)(A)) is amended by striking “an agreement”
20 and inserting “a written agreement”.

21 (c) EFFECTIVE DATE.—The amendments made by this
22 section shall apply with respect to contract years beginning
23 on or after January 1, 1996.

1 **SEC. 8116. ADDITIONAL EXCEPTION TO ANTI-KICKBACK**
2 **PENALTIES FOR DISCOUNTING AND MAN-**
3 **AGED CARE ARRANGEMENTS.**

4 (a) *IN GENERAL.*—Section 1128B(b)(3) (42 U.S.C.
5 1320a-7b(b)(3)) is amended—

6 (1) by striking “and” at the end of subpara-
7 graph (D);

8 (2) by striking the period at the end of subpara-
9 graph (E) and inserting “; and”; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(F) any remuneration between an organization
13 and an individual or entity providing items or serv-
14 ices, or a combination thereof, pursuant to a written
15 agreement between the organization and the individ-
16 ual or entity if the organization is a MedicarePlus or-
17 ganization under part C of title XVIII or if the writ-
18 ten agreement places the individual or entity at sub-
19 stantial financial risk for the cost or utilization of the
20 items or services, or a combination thereof, which the
21 individual or entity is obligated to provide, whether
22 through a withhold, capitation, incentive pool, per
23 diem payment, or any other similar risk arrangement
24 which places the individual or entity at substantial
25 financial risk.”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to written agreements entered into on*
 3 *or after January 1, 1996.*

4 ***SEC. 8117. PENALTIES FOR THE FRAUDULENT CONVERSION***
 5 ***OF ASSETS IN ORDER TO OBTAIN STATE***
 6 ***HEALTH CARE PROGRAM BENEFITS.***

7 Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended
 8 by striking “or” at the end of paragraph (4), by inserting
 9 “or” at the end of paragraph (5), and by inserting after
 10 paragraph (5) the following new paragraph:

11 “(6) knowingly and willfully converts assets, by
 12 transfer (including any transfer in trust), aiding in
 13 such a transfer, or otherwise, in order for an individ-
 14 ual to become eligible for benefits under a State health
 15 care program.”.

16 ***SEC. 8118. EFFECTIVE DATE.***

17 *Except as otherwise provided, the amendments made*
 18 *by this chapter shall take effect January 1, 1996.*

19 ***CHAPTER 3—ADMINISTRATIVE AND***
 20 ***MISCELLANEOUS PROVISIONS***

21 ***SEC. 8121. ESTABLISHMENT OF THE HEALTH CARE FRAUD***
 22 ***AND ABUSE DATA COLLECTION PROGRAM.***

23 (a) *IN GENERAL.*—*Title XI (42 U.S.C. 1301 et seq.),*
 24 *as amended by sections 8101 and 8105, is amended by in-*
 25 *serting after section 1128D the following new section:*

1 *supplier, or practitioner is affiliated or associ-*
2 *ated.*

3 “(C) *The nature of the final adverse action*
4 *and whether such action is on appeal.*

5 “(D) *A description of the acts or omissions*
6 *and injuries upon which the final adverse action*
7 *was based, and such other information as the*
8 *Secretary determines by regulation is required*
9 *for appropriate interpretation of information re-*
10 *ported under this section.*

11 “(3) *CONFIDENTIALITY.—In determining what*
12 *information is required, the Secretary shall include*
13 *procedures to assure that the privacy of individuals*
14 *receiving health care services is appropriately pro-*
15 *tected.*

16 “(4) *TIMING AND FORM OF REPORTING.—The in-*
17 *formation required to be reported under this sub-*
18 *section shall be reported regularly (but not less often*
19 *than monthly) and in such form and manner as the*
20 *Secretary prescribes. Such information shall first be*
21 *required to be reported on a date specified by the Sec-*
22 *retary.*

23 “(5) *TO WHOM REPORTED.—The information re-*
24 *quired to be reported under this subsection shall be re-*
25 *ported to the Secretary.*

1 “(c) *DISCLOSURE AND CORRECTION OF INFORMA-*
2 *TION.—*

3 “(1) *DISCLOSURE.—*With respect to the informa-
4 *tion about final adverse actions (not including settle-*
5 *ments in which no findings of liability have been*
6 *made) reported to the Secretary under this section re-*
7 *specting a health care provider, supplier, or practi-*
8 *tioner, the Secretary shall, by regulation, provide*
9 *for—*

10 “(A) *disclosure of the information, upon re-*
11 *quest, to the health care provider, supplier, or li-*
12 *censed practitioner, and*

13 “(B) *procedures in the case of disputed ac-*
14 *curacy of the information.*

15 “(2) *CORRECTIONS.—*Each Government agency
16 *and health plan shall report corrections of informa-*
17 *tion already reported about any final adverse action*
18 *taken against a health care provider, supplier, or*
19 *practitioner, in such form and manner that the Sec-*
20 *retary prescribes by regulation.*

21 “(d) *ACCESS TO REPORTED INFORMATION.—*

22 “(1) *AVAILABILITY.—*The information in this
23 *database shall be available to Federal and State gov-*
24 *ernment agencies and health plans pursuant to proce-*
25 *dures that the Secretary shall provide by regulation.*

1 “(2) *FEEES FOR DISCLOSURE.*—*The Secretary*
2 *may establish or approve reasonable fees for the dis-*
3 *closure of information in this database (other than*
4 *with respect to requests by Federal agencies). The*
5 *amount of such a fee shall be sufficient to recover the*
6 *full costs of operating the database. Such fees shall be*
7 *available to the Secretary or, in the Secretary’s dis-*
8 *cretion to the agency designated under this section to*
9 *cover such costs.*

10 “(e) *PROTECTION FROM LIABILITY FOR REPORTING.*—
11 *No person or entity, including the agency designated by the*
12 *Secretary in subsection (b)(5) shall be held liable in any*
13 *civil action with respect to any report made as required*
14 *by this section, without knowledge of the falsity of the infor-*
15 *mation contained in the report.*

16 “(f) *DEFINITIONS AND SPECIAL RULES.*—*For pur-*
17 *poses of this section:*

18 “(1) *FINAL ADVERSE ACTION.*—

19 “(A) *IN GENERAL.*—*The term ‘final adverse*
20 *action’ includes:*

21 “(i) *Civil judgments against a health*
22 *care provider, supplier, or practitioner in*
23 *Federal or State court related to the deliv-*
24 *ery of a health care item or service.*

1 “(ii) *Federal or State criminal convictions related to the delivery of a health care item or service.*

2
3
4 “(iii) *Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—*

5
6
7
8 “(I) *formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,*

9
10 “(II) *any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or*

11
12
13 “(III) *any other negative action or finding by such Federal or State agency that is publicly available information.*

14
15
16
17
18
19
20 “(iv) *Exclusion from participation in Federal or State health care programs.*

21
22
23
24
25

1 “(v) *Any other adjudicated actions or*
2 *decisions that the Secretary shall establish*
3 *by regulation.*

4 “(B) *EXCEPTION.—The term does not in-*
5 *clude any action with respect to a malpractice*
6 *claim.*

7 “(2) *PRACTITIONER.—The terms ‘licensed health*
8 *care practitioner’, ‘licensed practitioner’, and ‘practi-*
9 *tioner’ mean, with respect to a State, an individual*
10 *who is licensed or otherwise authorized by the State*
11 *to provide health care services (or any individual*
12 *who, without authority holds himself or herself out to*
13 *be so licensed or authorized).*

14 “(3) *GOVERNMENT AGENCY.—The term ‘Govern-*
15 *ment agency’ shall include:*

16 “(A) *The Department of Justice.*

17 “(B) *The Department of Health and*
18 *Human Services.*

19 “(C) *Any other Federal agency that either*
20 *administers or provides payment for the delivery*
21 *of health care services, including, but not limited*
22 *to the Department of Defense and the Veterans’*
23 *Administration.*

24 “(D) *State law enforcement agencies.*

25 “(E) *State MediGrant fraud control units.*

1 “(F) Federal or State agencies responsible
2 for the licensing and certification of health care
3 providers and licensed health care practitioners.

4 “(4) HEALTH PLAN.—The term ‘health plan’ has
5 the meaning given such term by section 1128C(c).

6 “(5) DETERMINATION OF CONVICTION.—For pur-
7 poses of paragraph (1), the existence of a conviction
8 shall be determined under paragraph (4) of section
9 1128(i).”.

10 (b) IMPROVED PREVENTION IN ISSUANCE OF MEDI-
11 CARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C.
12 1395u(r)) is amended by adding at the end the following
13 new sentence: “Under such system, the Secretary may im-
14 pose appropriate fees on such physicians to cover the costs
15 of investigation and recertification activities with respect
16 to the issuance of the identifiers.”.

17 **CHAPTER 4—CIVIL MONETARY PENALTIES**

18 **SEC. 8131. SOCIAL SECURITY ACT CIVIL MONETARY PEN-**

19 **ALTIES.**

20 (a) GENERAL CIVIL MONETARY PENALTIES.—Section
21 1128A (42 U.S.C. 1320a–7a) is amended as follows:

22 (1) In the third sentence of subsection (a), by
23 striking “programs under title XVIII” and inserting
24 “Federal health care programs (as defined in section
25 1128B(f)(1))”.

1 (2) *In subsection (f)—*

2 (A) *by redesignating paragraph (3) as*
3 *paragraph (4); and*

4 (B) *by inserting after paragraph (2) the fol-*
5 *lowing new paragraph:*

6 “*(3) With respect to amounts recovered arising*
7 *out of a claim under a Federal health care program*
8 *(as defined in section 1128B(f)), the portion of such*
9 *amounts as is determined to have been paid by the*
10 *program shall be repaid to the program, and the por-*
11 *tion of such amounts attributable to the amounts re-*
12 *covered under this section by reason of the amend-*
13 *ments made by the Medicare Preservation Act of 1995*
14 *(as estimated by the Secretary) shall be deposited into*
15 *the Federal Hospital Insurance Trust Fund pursuant*
16 *to section 1817(k)(2)(C).”.*

17 (3) *In subsection (i)—*

18 (A) *in paragraph (2), by striking “title V,*
19 *XVIII, XIX, or XX of this Act” and inserting “a*
20 *Federal health care program (as defined in sec-*
21 *tion 1128B(f))”.*

22 (B) *in paragraph (4), by striking “a health*
23 *insurance or medical services program under*
24 *title XVIII or XIX of this Act” and inserting “a*

1 *Federal health care program (as so defined)*”,
2 *and*

3 *(C) in paragraph (5), by striking “title V,*
4 *XVIII, XIX, or XX” and inserting “a Federal*
5 *health care program (as so defined)”.*

6 *(4) By adding at the end the following new sub-*
7 *section:*

8 *“(m)(1) For purposes of this section, with respect to*
9 *a Federal health care program not contained in this Act,*
10 *references to the Secretary in this section shall be deemed*
11 *to be references to the Secretary or Administrator of the de-*
12 *partment or agency with jurisdiction over such program*
13 *and references to the Inspector General of the Department*
14 *of Health and Human Services in this section shall be*
15 *deemed to be references to the Inspector General of the appli-*
16 *able department or agency.*

17 *“(2)(A) The Secretary and Administrator of the de-*
18 *partments and agencies referred to in paragraph (1) may*
19 *include in any action pursuant to this section, claims with-*
20 *in the jurisdiction of other Federal departments or agencies*
21 *as long as the following conditions are satisfied:*

22 *“(i) The case involves primarily claims submit-*
23 *ted to the Federal health care programs of the depart-*
24 *ment or agency initiating the action.*

1 “(ii) *The Secretary or Administrator of the de-*
2 *partment or agency initiating the action gives notice*
3 *and an opportunity to participate in the investiga-*
4 *tion to the Inspector General of the department or*
5 *agency with primary jurisdiction over the Federal*
6 *health care programs to which the claims were sub-*
7 *mitted.*

8 “(B) *If the conditions specified in subparagraph (A)*
9 *are fulfilled, the Inspector General of the department or*
10 *agency initiating the action is authorized to exercise all*
11 *powers granted under the Inspector General Act of 1978*
12 *with respect to the claims submitted to the other depart-*
13 *ments or agencies to the same manner and extent as pro-*
14 *vided in that Act with respect to claims submitted to such*
15 *departments or agencies.”.*

16 ***(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP***
17 ***OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Sec-***
18 ***tion 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—***

19 (1) *by striking “or” at the end of paragraph*
20 (1)(D);

21 (2) *by striking “, or” at the end of paragraph*
22 (2) and inserting a semicolon;

23 (3) *by striking the semicolon at the end of para-*
24 *graph (3) and inserting “; or”; and*

1 (4) by inserting after paragraph (3) the follow-
2 ing new paragraph:

3 “(4) in the case of a person who is not an orga-
4 nization, agency, or other entity, is excluded from
5 participating in a program under title XVIII or a
6 State health care program in accordance with this
7 subsection or under section 1128 and who, at the time
8 of a violation of this subsection—

9 “(i) retains a direct or indirect ownership
10 or control interest in an entity that is partici-
11 pating in a program under title XVIII or a
12 State health care program, and who knows or
13 should know of the action constituting the basis
14 for the exclusion; or

15 “(ii) is an officer or managing employee (as
16 defined in section 1126(b)) of such an entity;”.

17 (c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND
18 ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-
19 7a(a)), as amended by subsection (b), is amended in the
20 matter following paragraph (4)—

21 (1) by striking “\$2,000” and inserting
22 “\$10,000”;

23 (2) by inserting “; in cases under paragraph (4),
24 \$10,000 for each day the prohibited relationship oc-

1 *curs*” after “false or misleading information was
2 given”; and

3 (3) by striking “twice the amount” and inserting
4 “3 times the amount”.

5 (d) *CLAIM FOR ITEM OR SERVICE BASED ON INCOR-*
6 *RECT CODING OR MEDICALLY UNNECESSARY SERVICES.*—
7 *Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amend-*
8 *ed—*

9 (1) in subparagraph (A) by striking “claimed,”
10 and inserting “claimed, including any person who
11 engages in a pattern or practice of presenting or
12 causing to be presented a claim for an item or service
13 that is based on a code that the person knows or
14 should know will result in a greater payment to the
15 person than the code the person knows or should know
16 is applicable to the item or service actually pro-
17 vided,”;

18 (2) in subparagraph (C), by striking “or” at the
19 end;

20 (3) in subparagraph (D), by striking “; or” and
21 inserting “, or”; and

22 (4) by inserting after subparagraph (D) the fol-
23 lowing new subparagraph:

1 “(E) is for a medical or other item or serv-
2 ice that a person knows or should know is not
3 medically necessary; or”.

4 (e) *SANCTIONS AGAINST PRACTITIONERS AND PER-*
5 *SONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGA-*
6 *TIONS.*—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is
7 amended by striking “the actual or estimated cost” and in-
8 serting “up to \$10,000 for each instance”.

9 (f) *PROCEDURAL PROVISIONS.*—Section 1876(i)(6) (42
10 U.S.C. 1395mm(i)(6)), as amended by section 8115(a)(2),
11 is amended by adding at the end the following new subpara-
12 graph:

13 “(D) The provisions of section 1128A (other than sub-
14 sections (a) and (b)) shall apply to a civil money penalty
15 under subparagraph (B)(i) or (C)(i) in the same manner
16 as such provisions apply to a civil money penalty or pro-
17 ceeding under section 1128A(a).”.

18 (g) *PROHIBITION AGAINST OFFERING INDUCEMENTS*
19 *TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR*
20 *PLANS.*—

21 (1) *OFFER OF REMUNERATION.*—Section
22 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

23 (A) by striking “or” at the end of para-
24 graph (1)(D);

1 (B) by striking “, or” at the end of para-
2 graph (2) and inserting a semicolon;

3 (C) by striking the semicolon at the end of
4 paragraph (3) and inserting “; or”; and

5 (D) by inserting after paragraph (3) the fol-
6 lowing new paragraph:

7 “(4) offers to or transfers remuneration to any
8 individual eligible for benefits under title XVIII of
9 this Act, or under a State health care program (as de-
10 fined in section 1128(h)) that such person knows or
11 should know is likely to influence such individual to
12 order or receive from a particular provider, practi-
13 tioner, or supplier any item or service for which pay-
14 ment may be made, in whole or in part, under title
15 XVIII, or a State health care program (as so de-
16 fined);”.

17 (2) *REMUNERATION DEFINED.*—Section 1128A(i)
18 (42 U.S.C. 1320a–7a(i)) is amended by adding the
19 following new paragraph:

20 “(6) The term ‘remuneration’ includes the waiv-
21 er of coinsurance and deductible amounts (or any
22 part thereof), and transfers of items or services for
23 free or for other than fair market value. The term ‘re-
24 muneration’ does not include—

1 “(A) the waiver of coinsurance and deduct-
2 ible amounts by a person, if—

3 “(i) the waiver is not offered as part of
4 any advertisement or solicitation;

5 “(ii) the person does not routinely
6 waive coinsurance or deductible amounts;

7 and

8 “(iii) the person—

9 “(I) waives the coinsurance and
10 deductible amounts after determining
11 in good faith that the individual is in
12 financial need;

13 “(II) fails to collect coinsurance
14 or deductible amounts after making
15 reasonable collection efforts; or

16 “(III) provides for any permis-
17 sible waiver as specified in section
18 1128B(b)(3) or in regulations issued
19 by the Secretary;

20 “(B) differentials in coinsurance and de-
21 ductible amounts as part of a benefit plan design
22 as long as the differentials have been disclosed in
23 writing to all beneficiaries, third party payers,
24 and providers, to whom claims are presented and
25 as long as the differentials meet the standards as

1 *defined in regulations promulgated by the Sec-*
2 *retary not later than 180 days after the date of*
3 *the enactment of the Medicare Preservation Act*
4 *of 1995; or*

5 *“(C) incentives given to individuals to pro-*
6 *mote the delivery of preventive care as deter-*
7 *mined by the Secretary in regulations so pro-*
8 *mulgated.”.*

9 *(h) EFFECTIVE DATE.—The amendments made by this*
10 *section shall take effect January 1, 1996.*

11 ***SEC. 8132. CLARIFICATION OF LEVEL OF INTENT REQUIRED***
12 ***FOR IMPOSITION OF SANCTIONS.***

13 *(a) CLARIFICATION OF LEVEL OF KNOWLEDGE RE-*
14 *QUIRED FOR IMPOSITION OF CIVIL MONETARY PEN-*
15 *ALTIES.—*

16 *(1) IN GENERAL.—Section 1128A(a) (42 U.S.C.*
17 *1320a–7a(a)) is amended—*

18 *(A) in paragraphs (1) and (2), by inserting*
19 *“knowingly” before “presents” each place it ap-*
20 *pears; and*

21 *(B) in paragraph (3), by striking “gives”*
22 *and inserting “knowingly gives or causes to be*
23 *given”.*

1 (2) *DEFINITION OF STANDARD.*—Section
2 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by
3 adding at the end the following new paragraph:

4 “(6) The term ‘should know’ means that a per-
5 son, with respect to information—

6 “(A) acts in deliberate ignorance of the
7 truth or falsity of the information; or

8 “(B) acts in reckless disregard of the truth
9 or falsity of the information,

10 and no proof of specific intent to defraud is re-
11 quired.”.

12 (b) *EFFECTIVE DATE.*—The amendments made by this
13 section shall apply to acts or omissions occurring on or
14 after January 1, 1996.

15 **SEC. 8133. PENALTY FOR FALSE CERTIFICATION FOR HOME**
16 **HEALTH SERVICES.**

17 (a) *IN GENERAL.*—Section 1128A(b) (42 U.S.C.
18 1320a-7a(b)) is amended by adding at the end the following
19 new paragraph:

20 “(3)(A) Any physician who executes a document de-
21 scribed in subparagraph (B) with respect to an individual
22 knowing that all of the requirements referred to in such sub-
23 paragraph are not met with respect to the individual shall
24 be subject to a civil monetary penalty of not more than the
25 greater of—

1 “(1) to defraud any Federal health care pro-
2 gram, in connection with the delivery of or payment
3 for health care benefits, items, or services; or

4 “(2) to obtain, by means of false or fraudulent
5 pretenses, representations, or promises, any of the
6 money or property owned by, or under the custody or
7 control of, any Federal health care program in con-
8 nection with the delivery of or payment for health
9 care benefits, items, or services;

10 shall be fined under this title or imprisoned not more than
11 10 years, or both. If the violation results in serious bodily
12 injury (as defined in section 1365(g)(3) of this title), such
13 person may be imprisoned for any term of years.

14 “(b) For purposes of this section, the term ‘Federal
15 health care program’ has the same meaning given such term
16 in section 1128B(f) of the Social Security Act.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
18 tions at the beginning of chapter 63 of title 18, Unit-
19 ed States Code, is amended by adding at the end the
20 following:

 “1347. Health care fraud.”.

21 (b) CRIMINAL FINES DEPOSITED IN FEDERAL HOS-
22 PITAL INSURANCE TRUST FUND.—The Secretary of the
23 Treasury shall deposit into the Federal Hospital Insurance
24 Trust Fund pursuant to section 1817(k)(2)(C) of the Social
25 Security Act, as added by section 8101(b), an amount equal

1 *to the criminal fines imposed under section 1347 of title*
2 *18, United States Code (relating to health care fraud).*

3 **SEC. 8142. FORFEITURES FOR FEDERAL HEALTH CARE OF-**
4 **FENSES.**

5 *(a) IN GENERAL.—Section 982(a) of title 18, United*
6 *States Code, is amended by adding after paragraph (5) the*
7 *following new paragraph:*

8 *“(6)(A) The court, in imposing sentence on a person*
9 *convicted of a Federal health care offense, shall order the*
10 *person to forfeit property, real or personal, that constitutes*
11 *or is derived, directly or indirectly, from gross proceeds*
12 *traceable to the commission of the offense.*

13 *“(B) For purposes of this paragraph, the term ‘Federal*
14 *health care offense’ means a violation of, or a criminal con-*
15 *spiracy to violate—*

16 *“(i) section 1347 of this title;*

17 *“(ii) section 1128B of the Social Security Act;*
18 *and*

19 *“(iii) sections 287, 371, 664, 666, 669, 1001,*
20 *1027, 1341, 1343, 1920, or 1954 of this title if the*
21 *violation or conspiracy relates to health care fraud.”.*

22 *(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A)*
23 *of title 18, United States Code, is amended by inserting*
24 *“or (a)(6)” after “(a)(1)”.*

1 (c) *PROPERTY FORFEITED DEPOSITED IN FEDERAL*
2 *HOSPITAL INSURANCE TRUST FUND.*—

3 (1) *IN GENERAL.*—*After the payment of the costs*
4 *of asset forfeiture has been made, and notwithstand-*
5 *ing any other provision of law, the Secretary of the*
6 *Treasury shall deposit into the Federal Hospital In-*
7 *surance Trust Fund pursuant to section*
8 *1817(k)(2)(C) of the Social Security Act, as added by*
9 *section 8101(b), an amount equal to the net amount*
10 *realized from the forfeiture of property by reason of*
11 *a Federal health care offense pursuant to section*
12 *982(a)(6) of title 18, United States Code.*

13 (2) *COSTS OF ASSET FORFEITURE.*—*For pur-*
14 *poses of paragraph (1), the term “payment of the*
15 *costs of asset forfeiture” means—*

16 (A) *the payment, at the discretion of the At-*
17 *torney General, of any expenses necessary to*
18 *seize, detain, inventory, safeguard, maintain, ad-*
19 *vertise, sell, or dispose of property under seizure,*
20 *detention, or forfeited, or of any other necessary*
21 *expenses incident to the seizure, detention, for-*
22 *feiture, or disposal of such property, including*
23 *payment for—*

24 (i) *contract services,*

1 (ii) the employment of outside contrac-
2 tors to operate and manage properties or
3 provide other specialized services necessary
4 to dispose of such properties in an effort to
5 maximize the return from such properties;
6 and

7 (iii) reimbursement of any Federal,
8 State, or local agency for any expenditures
9 made to perform the functions described in
10 this subparagraph;

11 (B) at the discretion of the Attorney Gen-
12 eral, the payment of awards for information or
13 assistance leading to a civil or criminal forfeit-
14 ure involving any Federal agency participating
15 in the Health Care Fraud and Abuse Control Ac-
16 count;

17 (C) the compromise and payment of valid
18 liens and mortgages against property that has
19 been forfeited, subject to the discretion of the At-
20 torney General to determine the validity of any
21 such lien or mortgage and the amount of pay-
22 ment to be made, and the employment of attor-
23 neys and other personnel skilled in State real es-
24 tate law as necessary;

1 (D) payment authorized in connection with
2 remission or mitigation procedures relating to
3 property forfeited; and

4 (E) the payment of State and local property
5 taxes on forfeited real property that accrued be-
6 tween the date of the violation giving rise to the
7 forfeiture and the date of the forfeiture order.

8 **SEC. 8143. INJUNCTIVE RELIEF RELATING TO FEDERAL**
9 **HEALTH CARE OFFENSES.**

10 (a) *IN GENERAL.*—Section 1345(a)(1) of title 18,
11 *United States Code*, is amended—

12 (1) by striking “or” at the end of subparagraph
13 (A);

14 (2) by inserting “or” at the end of subparagraph
15 (B); and

16 (3) by adding at the end the following new sub-
17 paragraph:

18 “(C) committing or about to commit a Fed-
19 eral health care offense (as defined in section
20 982(a)(6)(B) of this title);”.

21 (b) *FREEZING OF ASSETS.*—Section 1345(a)(2) of title
22 18, *United States Code*, is amended by inserting “or a Fed-
23 eral health care offense (as defined in section 982(a)(6)(B))”
24 after “title”.

1 **SEC. 8144. FALSE STATEMENTS.**

2 (a) *IN GENERAL.*—Chapter 47 of title 18, United
3 States Code, is amended by adding at the end the following
4 new section:

5 **“§ 1033. False statements relating to health care mat-**
6 **ters**

7 “(a) Whoever, in any matter involving a Federal
8 health care program, knowingly and willfully—

9 “(1) falsifies, conceals, or covers up by any trick,
10 scheme, or device a material fact, or

11 “(2) makes any materially false, fictitious, or
12 fraudulent statement or representation, or makes or
13 uses any materially false writing or document know-
14 ing the same to contain any materially false, ficti-
15 tious, or fraudulent statement or entry,

16 shall be fined under this title or imprisoned not more than
17 5 years, or both.

18 “(b) For purposes of this section, the term ‘Federal
19 health care program’ has the same meaning given such term
20 in section 1128B(f) of the Social Security Act.”.

21 (b) *CLERICAL AMENDMENT.*—The table of sections at
22 the beginning of chapter 47 of title 18, United States Code,
23 is amended by adding at the end the following:

“1033. False statements relating to health care matters.”.

1 **SEC. 8145. OBSTRUCTION OF CRIMINAL INVESTIGATIONS**
2 **OF FEDERAL HEALTH CARE OFFENSES.**

3 (a) *IN GENERAL.*—Chapter 73 of title 18, United
4 States Code, is amended by adding at the end the following
5 new section:

6 **“§1518. Obstruction of criminal investigations of Fed-**
7 **eral health care offenses**

8 “(a) *Whoever willfully prevents, obstructs, misleads,*
9 *delays or attempts to prevent, obstruct, mislead, or delay*
10 *the communication of information or records relating to a*
11 *Federal health care offense to a criminal investigator shall*
12 *be fined under this title or imprisoned not more than 5*
13 *years, or both.*

14 “(b) *As used in this section the term ‘Federal health*
15 *care offense’ has the same meaning given such term in sec-*
16 *tion 982(a)(6)(B) of this title.*

17 “(c) *As used in this section the term ‘criminal inves-*
18 *tigator’ means any individual duly authorized by a depart-*
19 *ment, agency, or armed force of the United States to con-*
20 *duct or engage in investigations for prosecutions for viola-*
21 *tions of health care offenses.’.*”

22 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
23 *the beginning of chapter 73 of title 18, United States Code,*
24 *is amended by adding at the end the following:*

“1518. *Obstruction of Criminal Investigations of Federal Health Care Offenses.*”.

1 **SEC. 8146. THEFT OR EMBEZZLEMENT.**

2 (a) *IN GENERAL.*—Chapter 31 of title 18, United
3 States Code, is amended by adding at the end the following
4 new section:

5 **“§669. Theft or embezzlement in connection with**
6 **health care**

7 “(a) Whoever willfully embezzles, steals, or otherwise
8 willfully and unlawfully converts to the use of any person
9 other than the rightful owner, or intentionally misapplies
10 any of the moneys, funds, securities, premiums, credits,
11 property, or other assets of a Federal health care program,
12 shall be fined under this title or imprisoned not more than
13 10 years, or both.

14 “(b) As used in this section the term ‘Federal health
15 care program’ has the same meaning given such term in
16 section 1128B(f) of the Social Security Act.”.

17 (b) *CLERICAL AMENDMENT.*—The table of sections at
18 the beginning of chapter 31 of title 18, United States Code,
19 is amended by adding at the end the following:

“669. Theft or Embezzlement in Connection with Health Care.”.

20 **SEC. 8147. LAUNDERING OF MONETARY INSTRUMENTS.**

21 Section 1956(c)(7) of title 18, United States Code, is
22 amended by adding at the end the following new subpara-
23 graph:

24 “(F) Any act or activity constituting an of-
25 fense involving a Federal health care offense as

1 that term is defined in section 982(a)(6)(B) of
2 this title.”.

3 **SEC. 8148. AUTHORIZED INVESTIGATIVE DEMAND PROCE-**
4 **DURES.**

5 (a) *IN GENERAL.*—Chapter 233 of title 18, United
6 States Code, is amended by adding after section 3485 the
7 following new section:

8 **“§ 3486. Authorized investigative demand procedures**

9 “(a)(1)(A) *In any investigation relating to functions*
10 *set forth in paragraph (2), the Attorney General or designee*
11 *may issue in writing and cause to be served a subpoena*
12 *compelling production of any records (including any books,*
13 *papers, documents, electronic media, or other objects or tan-*
14 *gible things), which may be relevant to an authorized law*
15 *enforcement inquiry, that a person or legal entity may pos-*
16 *sess or have care, custody, or control.*

17 “(B) *A custodian of records may be required to give*
18 *testimony concerning the production and authentication of*
19 *such records.*

20 “(C) *The production of records may be required from*
21 *any place in any State or in any territory or other place*
22 *subject to the jurisdiction of the United States at any des-*
23 *ignated place; except that such production shall not be re-*
24 *quired more than 500 miles distant from the place where*
25 *the subpoena is served.*

1 “(D) Witnesses summoned under this section shall be
2 paid the same fees and mileage that are paid witnesses in
3 the courts of the United States.

4 “(E) A subpoena requiring the production of records
5 shall describe the objects required to be produced and pre-
6 scribe a return date within a reasonable period of time
7 within which the objects can be assembled and made avail-
8 able.

9 “(2) Investigative demands utilizing an administra-
10 tive subpoena are authorized for any investigation with re-
11 spect to any act or activity constituting or involving health
12 care fraud, including a scheme or artifice—

13 “(A) to defraud any Federal health care pro-
14 gram, in connection with the delivery of or payment
15 for health care benefits, items, or services; or

16 “(B) to obtain, by means of false or fraudulent
17 pretenses, representations, or promises, any of the
18 money or property owned by, or under the custody or
19 control or, any Federal health care program in con-
20 nection with the delivery of or payment for health
21 care benefits, items, or services.

22 “(b)(1) A subpoena issued under this section may be
23 served by any person designated in the subpoena to serve
24 it.

1 “(2) Service upon a natural person may be made by
2 personal delivery of the subpoena to such person.

3 “(3) Service may be made upon a domestic or foreign
4 association which is subject to suit under a common name,
5 by delivering the subpoena to an officer, to a managing or
6 general agent, or to any other agent authorized by appoint-
7 ment or by law to receive service of process.

8 “(4) The affidavit of the person serving the subpoena
9 entered on a true copy thereof by the person serving it shall
10 be proof of service.

11 “(c)(1) In the case of contumacy by or refusal to obey
12 a subpoena issued to any person, the Attorney General may
13 invoke the aid of any court of the United States within the
14 jurisdiction of which the investigation is carried on or of
15 which the subpoenaed person is an inhabitant, or in which
16 such person carries on business or may be found, to compel
17 compliance with the subpoena.

18 “(2) The court may issue an order requiring the sub-
19 poenaed person to appear before the Attorney General to
20 produce records, if so ordered, or to give testimony required
21 under subsection (a)(1)(B).

22 “(3) Any failure to obey the order of the court may
23 be punished by the court as a contempt thereof.

24 “(4) All process in any such case may be served in
25 any judicial district in which such person may be found.

1 “(d) Notwithstanding any Federal, State, or local law,
2 any person, including officers, agents, and employees, re-
3 ceiving a subpoena under this section, who complies in good
4 faith with the subpoena and thus produces the materials
5 sought, shall not be liable in any court of any State or the
6 United States to any customer or other person for such pro-
7 duction or for nondisclosure of that production to the cus-
8 tomer.

9 “(e)(1) Health information about an individual that
10 is disclosed under this section may not be used in, or dis-
11 closed to any person for use in, any administrative, civil,
12 or criminal action or investigation directed against the in-
13 dividual who is the subject of the information unless the
14 action or investigation arises out of and is directly related
15 to receipt of health care or payment for health care or action
16 involving a fraudulent claim related to health; or if author-
17 ized by an appropriate order of a court of competent juris-
18 diction, granted after application showing good cause there-
19 fore.

20 “(2) In assessing good cause, the court shall weigh the
21 public interest and the need for disclosure against the in-
22 jury to the patient, to the physician-patient relationship,
23 and to the treatment services.

24 “(3) Upon the granting of such order, the court, in
25 determining the extent to which any disclosure of all or any

1 *part of any record is necessary, shall impose appropriate*
 2 *safeguards against unauthorized disclosure.*

3 “(f) *As used in this section the term ‘Federal health*
 4 *care program’ has the same meaning given such term in*
 5 *section 1128B(f) of the Social Security Act.”*

6 (b) *CLERICAL AMENDMENT.—The table of sections for*
 7 *chapter 223 of title 18, United States Code, is amended by*
 8 *inserting after the item relating to section 3405 the follow-*
 9 *ing new item:*

10 **“§ 3486. Authorized investigative demand procedures”**.

11 (c) *CONFORMING AMENDMENT.—Section*
 12 *1510(b)(3)(B) of title 18, United States Code, is amended*
 13 *by inserting “or a Department of Justice subpoena (issued*
 14 *under section 3486),” after “subpoena”.*

15 **CHAPTER 6—STATE HEALTH CARE FRAUD**
 16 **CONTROL UNITS**

17 **SEC. 8151. STATE HEALTH CARE FRAUD CONTROL UNITS.**

18 (a) *EXTENSION OF CONCURRENT AUTHORITY TO IN-*
 19 *VESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL*
 20 *PROGRAMS.—Paragraph (3) of section 2134(b), as added*
 21 *by section 7001 of this Act, is amended—*

22 (1) *by inserting “(A)” after “in connection*
 23 *with”; and*

24 (2) *by striking “plan.” and inserting “plan; and*

25 (B) *upon the approval of the relevant Federal agency*

1 *and the chief executive officer of the State or such offi-*
2 *cer’s designee, any aspect of the provision of health*
3 *care services and activities of providers of such serv-*
4 *ices under any Federal health care program (as de-*
5 *fin ed in section 1128B(f)(1)).”.*

6 *(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND*
7 *PROSECUTE PATIENT ABUSE IN NON-MEDI GRANT BOARD*
8 *AND CARE FACILITIES.—Paragraph (4) of section 2134(b),*
9 *as added by section 7001 of this Act, is amended to read*
10 *as follows:*

11 *“(4)(A) The entity has—*

12 *“(i) procedures for reviewing complaints of*
13 *abuse or neglect of patients in health care facili-*
14 *ties which receive payments under the*
15 *MediGrant plan funded under this title;*

16 *“(ii) at the option of the entity, procedures*
17 *for reviewing complaints of abuse or neglect of*
18 *patients residing in board and care facilities;*
19 *and*

20 *“(iii) where appropriate, procedures for act-*
21 *ing upon such complaints under the criminal*
22 *laws of the State or for referring such complaints*
23 *to other State agencies for action.*

24 *“(B) For purposes of this paragraph, the term*
25 *‘board and care facility’ means a residential setting*

1 *which receives payment from or on behalf of two or*
 2 *more unrelated adults who reside in such facility, and*
 3 *for whom one or both of the following is provided:*

4 “(i) *Nursing care services provided by, or*
 5 *under the supervision of, a registered nurse, li-*
 6 *icensed practical nurse, or licensed nursing as-*
 7 *stant.*”

8 “(ii) *Personal care services that assist resi-*
 9 *dents with the activities of daily living, includ-*
 10 *ing personal hygiene, dressing, bathing, eating,*
 11 *toileting, ambulation, transfer, positioning, self-*
 12 *medication, body care, travel to medical services,*
 13 *essential shopping, meal preparation, laundry,*
 14 *and housework.”.*

15 ***Subtitle C—Regulatory Relief***

16 ***SEC. 8201. REPEAL OF PHYSICIAN OWNERSHIP REFERRAL*** 17 ***PROHIBITIONS BASED ON COMPENSATION*** 18 ***ARRANGEMENTS.***

19 (a) *IN GENERAL.*—Section 1877(a)(2) (42 U.S.C.
 20 1395nn(a)(2)) is amended by striking “is—” and all that
 21 follows through “equity,” and inserting the following: “is
 22 (except as provided in subsection (c)) an ownership or in-
 23 vestment interest in the entity through equity,”.

24 (b) *CONFORMING AMENDMENTS.*—Section 1877 (42
 25 U.S.C. 1395nn) is amended as follows:

1 (1) *In subsection (b)—*

2 (A) *in the heading, by striking “TO BOTH*
3 *OWNERSHIP AND COMPENSATION ARRANGEMENT*
4 *PROHIBITIONS” and inserting “WHERE FINAN-*
5 *CIAL RELATIONSHIP EXISTS”;* and

6 (B) *by redesignating paragraph (4) as*
7 *paragraph (7).*

8 (2) *In subsection (c)—*

9 (A) *by amending the heading to read as fol-*
10 *lows: “EXCEPTION FOR OWNERSHIP OR INVEST-*
11 *MENT INTEREST IN PUBLICLY TRADED SECURI-*
12 *TIES AND MUTUAL FUNDS”;* and

13 (B) *in the matter preceding paragraph (1),*
14 *by striking “subsection (a)(2)(A)” and inserting*
15 *“subsection (a)(2)”.*

16 (3) *In subsection (d)—*

17 (A) *by striking the matter preceding para-*
18 *graph (1);*

19 (B) *in paragraph (3), by striking “para-*
20 *graph (1)” and inserting “paragraph (4)”;* and

21 (C) *by redesignating paragraphs (1), (2),*
22 *and (3) as paragraphs (4), (5), and (6), and by*
23 *transferring and inserting such paragraphs after*
24 *paragraph (3) of subsection (b).*

25 (4) *By striking subsection (e).*

1 (5) *In subsection (f)(2)—*

2 (A) *in the matter preceding paragraph (1),*
3 *by striking “ownership, investment, and com-*
4 *ensation” and inserting “ownership and invest-*
5 *ment”;*

6 (B) *in paragraph (2), by striking “sub-*
7 *section (a)(2)(A)” and all that follows through*
8 *“subsection (a)(2)(B),” and inserting “sub-*
9 *section (a)(2),”;* and

10 (C) *in paragraph (2), by striking “or who*
11 *have such a compensation relationship with the*
12 *entity”.*

13 (6) *In subsection (h)—*

14 (A) *by striking paragraphs (1), (2), and*
15 *(3);*

16 (B) *in paragraph (4)(A), by striking*
17 *clauses (iv) and (vi);*

18 (C) *in paragraph (4)(B), by striking*
19 *“RULES.—” and all that follows through “(ii)*
20 *FACULTY” and inserting “RULES FOR FACULTY”;*
21 *and*

22 (D) *by adding at the end of paragraph (4)*
23 *the following new subparagraph:*

24 “(C) *MEMBER OF A GROUP.—A physician*
25 *is a ‘member’ of a group if the physician is an*

1 owner or a bona fide employee, or both, of the
2 group.”.

3 **SEC. 8202. REVISION OF DESIGNATED HEALTH SERVICES**

4 **SUBJECT TO OWNERSHIP REFERRAL PROHI-**
5 **BITION.**

6 (a) *IN GENERAL.*—Section 1877(h)(6) (42 U.S.C.
7 1395nn(h)(6)) is amended by striking subparagraphs (B)
8 through (K) and inserting the following:

9 “(B) Parenteral and enteral nutrients,
10 equipment, and supplies.

11 “(C) Radiology services, including magnetic
12 resonance imaging, computerized tomography,
13 and ultrasound services.

14 “(D) Outpatient physical or occupational
15 therapy services.”.

16 (b) *CONFORMING AMENDMENTS.*—

17 (1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2))
18 is amended in the matter preceding subparagraph (A)
19 by striking “services” and all that follows through
20 “supplies)—” and inserting “services—”.

21 (2) Section 1877(h)(5)(C) (42 U.S.C.
22 1395nn(h)(5)(C)) is amended—

23 (A) by striking “, a request by a radiologist
24 for diagnostic radiology services, and a request
25 by a radiation oncologist for radiation therapy,”

1 and inserting “and a request by a radiologist for
2 magnetic resonance imaging or for computerized
3 tomography”, and

4 (B) by striking “radiologist, or radiation
5 oncologist” and inserting “or radiologist”.

6 **SEC. 8203. DELAY IN IMPLEMENTATION OF 1993 OWNERSHIP**
7 **REFERRAL CHANGES UNTIL PROMULGATION**
8 **OF REGULATIONS.**

9 (a) *IN GENERAL.*—Section 13562(b) of OBRA–1993
10 (42 U.S.C. 1395nn note) is amended—

11 (1) in paragraph (1), by striking “paragraph
12 (2)” and inserting “paragraphs (2) and (3)”; and

13 (2) by adding at the end the following new para-
14 graph:

15 “(3) *PROMULGATION OF REGULATIONS.*—Not-
16 withstanding paragraphs (1) and (2), the amend-
17 ments made by this section shall not apply to any re-
18 ferrals made before the effective date of final regula-
19 tions promulgated by the Secretary of Health and
20 Human Services to carry out such amendments.”.

21 (b) *EFFECTIVE DATE.*—The amendments made by sub-
22 section (a) shall take effect as if included in the enactment
23 of OBRA–1993.

1 **SEC. 8204. EXCEPTIONS TO OWNERSHIP REFERRAL PROHI-**
2 **BITIONS.**

3 (a) *REVISIONS TO EXCEPTION FOR IN-OFFICE ANCIL-*
4 *LARY SERVICES.—*

5 (1) *REPEAL OF SITE-OF-SERVICE REQUIRE-*
6 *MENT.—Section 1877 (42 U.S.C. 1395nn) is amend-*
7 *ed—*

8 (A) *by amending subparagraph (A) of sub-*
9 *section (b)(2) to read as follows:*

10 “(A) *that are furnished personally by the*
11 *referring physician, personally by a physician*
12 *who is a member of the same group practice as*
13 *the referring physician, or personally by individ-*
14 *uals who are under the general supervision of the*
15 *physician or of another physician in the group*
16 *practice, and”, and*

17 (B) *by adding at the end of subsection (h)*
18 *the following new paragraph:*

19 “(7) *GENERAL SUPERVISION.—An individual is*
20 *considered to be under the ‘general supervision’ of a*
21 *physician if the physician (or group practice of which*
22 *the physician is a member) is legally responsible for*
23 *the services performed by the individual and for en-*
24 *sureing that the individual meets licensure and certifi-*
25 *cation requirements, if any, applicable under other*
26 *provisions of law, regardless of whether or not the*

1 *physician is physically present when the individual*
2 *furnishes an item or service.”.*

3 (2) *CLARIFICATION OF TREATMENT OF PHYSI-*
4 *CIAN OWNERS OF GROUP PRACTICE.—Section*
5 *1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amend-*
6 *ed by striking “physician or such group practice”*
7 *and inserting “physician, such group practice, or the*
8 *physician owners of such group practice”.*

9 (3) *CONFORMING AMENDMENT.—Section*
10 *1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by*
11 *amending the heading to read as follows: “ANCILLARY*
12 *SERVICES FURNISHED PERSONALLY OR THROUGH*
13 *GROUP PRACTICE.—”.*

14 (b) *CLARIFICATION OF EXCEPTION FOR SERVICES*
15 *FURNISHED IN A RURAL AREA.—Paragraph (5) of section*
16 *1877(b) (42 U.S.C. 1395nn(b)), as transferred by section*
17 *8201(b)(3)(C), is amended by striking “substantially all”*
18 *and inserting “not less than 75 percent”.*

19 (c) *REVISION OF EXCEPTION FOR CERTAIN MANAGED*
20 *CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C.*
21 *1395nn(b)(3)) is amended—*

22 (1) *in the heading by inserting “MANAGED CARE*
23 *ARRANGEMENTS” after “PREPAID PLANS”;*

24 (2) *in the matter preceding subparagraph (A),*
25 *by striking “organization—” and inserting “organi-*

1 *zation, directly or through contractual arrangements*
2 *with other entities, to individuals enrolled with the*
3 *organization—”;*

4 *(3) in subparagraph (A), by inserting “or part*
5 *C” after “section 1876”;*

6 *(4) by striking “or” at the end of subparagraph*
7 *(C);*

8 *(5) by striking the period at the end of subpara-*
9 *graph (D) and inserting a comma; and*

10 *(6) by adding at the end the following new sub-*
11 *paragraphs:*

12 *“(E) with a contract with a State to pro-*
13 *vide services under the State plan under title*
14 *XIX (in accordance with section 1903(m)) or a*
15 *State MediGrant plan under title XXI; or*

16 *“(F) which is a MedicarePlus organization*
17 *under part C or which provides or arranges for*
18 *the provision of health care items or services*
19 *pursuant to a written agreement between the or-*
20 *ganization and an individual or entity if the*
21 *written agreement places the individual or entity*
22 *at substantial financial risk for the cost or utili-*
23 *zation of the items or services which the individ-*
24 *ual or entity is obligated to provide, whether*
25 *through a withhold, capitation, incentive pool,*

1 *per diem payment, or any other similar risk ar-*
2 *rangement which places the individual or entity*
3 *at substantial financial risk.”.*

4 (d) *NEW EXCEPTION FOR SHARED FACILITY SERV-*
5 *ICES.—*

6 (1) *IN GENERAL.—Section 1877(b) (42 U.S.C.*
7 *1395nn(b)), as amended by section 8201(b)(3)(C), is*
8 *amended—*

9 (A) *by redesignating paragraphs (4)*
10 *through (7) as paragraphs (5) through (8); and*

11 (B) *by inserting after paragraph (3) the fol-*
12 *lowing new paragraph:*

13 “(4) *SHARED FACILITY SERVICES.—In the case*
14 *of a designated health service consisting of a shared*
15 *facility service of a shared facility—*

16 “(A) *that is furnished—*

17 “(i) *personally by the referring physi-*
18 *cian who is a shared facility physician or*
19 *personally by an individual directly em-*
20 *ployed or under the general supervision of*
21 *such a physician,*

22 “(ii) *by a shared facility in a building*
23 *in which the referring physician furnishes*
24 *substantially all of the services of the physi-*

1 *cian that are unrelated to the furnishing of*
2 *shared facility services, and*

3 *“(iii) to a patient of a shared facility*
4 *physician; and*

5 *“(B) that is billed by the referring physi-*
6 *cian or a group practice of which the physician*
7 *is a member.”.*

8 (2) *DEFINITIONS.—Section 1877(h) (42 U.S.C.*
9 *1395nn(h)), as amended by section 8201(b)(6), is*
10 *amended by inserting before paragraph (4) the follow-*
11 *ing new paragraph:*

12 *“(1) SHARED FACILITY RELATED DEFINI-*
13 *TIONS.—*

14 *“(A) SHARED FACILITY SERVICE.—The*
15 *term ‘shared facility service’ means, with respect*
16 *to a shared facility, a designated health service*
17 *furnished by the facility to patients of shared fa-*
18 *cility physicians.*

19 *“(B) SHARED FACILITY.—The term ‘shared*
20 *facility’ means an entity that furnishes shared*
21 *facility services under a shared facility arrange-*
22 *ment.*

23 *“(C) SHARED FACILITY PHYSICIAN.—The*
24 *term ‘shared facility physician’ means, with re-*
25 *spect to a shared facility, a physician (or a*

1 *group practice of which the physician is a mem-*
2 *ber) who has a financial relationship under a*
3 *shared facility arrangement with the facility.*

4 “(D) *SHARED FACILITY ARRANGEMENT.*—
5 *The term ‘shared facility arrangement’ means,*
6 *with respect to the provision of shared facility*
7 *services in a building, a financial arrange-*
8 *ment—*

9 “(i) *which is only between physicians*
10 *who are providing services (unrelated to*
11 *shared facility services) in the same build-*
12 *ing,*

13 “(ii) *in which the overhead expenses of*
14 *the facility are shared, in accordance with*
15 *methods previously determined by the phy-*
16 *sicians in the arrangement, among the phy-*
17 *sicians in the arrangement, and*

18 “(iii) *which, in the case of a corpora-*
19 *tion, is wholly owned and controlled by*
20 *shared facility physicians.”.*

21 (e) *NEW EXCEPTION FOR SERVICES FURNISHED IN*
22 *COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.*—*Sec-*
23 *tion 1877(b) (42 U.S.C. 1395nn(b)), as amended by section*
24 *8201(b)(3)(C) and subsection (d)(1), is amended—*

1 (1) by redesignating paragraphs (5) through (8)
2 as paragraphs (6) through (9); and

3 (2) by inserting after paragraph (4) the follow-
4 ing new paragraph:

5 “(5) *NO ALTERNATIVE PROVIDERS IN AREA.*—*In*
6 *the case of a designated health service furnished in*
7 *any area with respect to which the Secretary deter-*
8 *mines that individuals residing in the area do not*
9 *have reasonable access to such a designated health*
10 *service for which subsection (a)(1) does not apply.”.*

11 (f) *NEW EXCEPTION FOR SERVICES FURNISHED IN*
12 *AMBULATORY SURGICAL CENTERS.*—*Section 1877(b) (42*
13 *U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C),*
14 *subsection (d)(1), and subsection (e)(1), is amended—*

15 (1) by redesignating paragraphs (6) through (9)
16 as paragraphs (7) through (10); and

17 (2) by inserting after paragraph (5) the follow-
18 ing new paragraph:

19 “(6) *SERVICES FURNISHED IN AMBULATORY*
20 *SURGICAL CENTERS.*—*In the case of a designated*
21 *health service furnished in an ambulatory surgical*
22 *center described in section 1832(a)(2)(F)(i).”.*

23 (g) *NEW EXCEPTION FOR SERVICES FURNISHED IN*
24 *RENAL DIALYSIS FACILITIES.*—*Section 1877(b) (42 U.S.C.*
25 *1395nn(b)), as amended by section 8201(b)(3)(C), sub-*

1 *section (d)(1), subsection (e)(1), and subsection (f), is*
2 *amended—*

3 *(1) by redesignating paragraphs (7) through (10)*
4 *as paragraphs (8) through (11); and*

5 *(2) by inserting after paragraph (6) the follow-*
6 *ing new paragraph:*

7 *“(7) SERVICES FURNISHED IN RENAL DIALYSIS*
8 *FACILITIES.—In the case of a designated health serv-*
9 *ice furnished in a renal dialysis facility under section*
10 *1881.”.*

11 *(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A*
12 *HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as*
13 *amended by section 8201(b)(3)(C), subsection (d)(1), sub-*
14 *section (e)(1), subsection (f), and subsection (g), is amend-*
15 *ed—*

16 *(1) by redesignating paragraphs (8) through (11)*
17 *as paragraphs (9) through (12); and*

18 *(2) by inserting after paragraph (7) the follow-*
19 *ing new paragraph:*

20 *“(8) SERVICES FURNISHED BY A HOSPICE PRO-*
21 *GRAM.—In the case of a designated health service fur-*
22 *nished by a hospice program under section*
23 *1861(dd)(2).”.*

24 *(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A*
25 *COMPREHENSIVE OUTPATIENT REHABILITATION FACIL-*

1 *ITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended*
2 *by section 8201(b)(3)(C), subsection (d)(1), subsection*
3 *(e)(1), subsection (f), subsection (g), and subsection (h), is*
4 *amended—*

5 *(1) by redesignating paragraphs (9) through (12)*
6 *as paragraphs (10) through (13); and*

7 *(2) by inserting after paragraph (8) the follow-*
8 *ing new paragraph:*

9 *“(9) SERVICES FURNISHED IN A COMPREHEN-*
10 *SIVE OUTPATIENT REHABILITATION FACILITY.—In the*
11 *case of a designated health service furnished in a com-*
12 *prehensive outpatient rehabilitation facility (as de-*
13 *fined in section 1861(cc)(2)).”.*

14 *(j) DEFINITION OF REFERRAL.—Section*
15 *1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—*

16 *(1) by striking “an item or service” and insert-*
17 *ing “a designated health service”, and*

18 *(2) by striking “the item or service” and insert-*
19 *ing “the designated health service”.*

20 **SEC. 8205. EFFECTIVE DATE.**

21 *Except as provided in section 8203(b), the amendments*
22 *made by this subtitle shall apply to referrals made on or*
23 *after the date of the enactment of this Act, regardless of*
24 *whether or not regulations are promulgated to carry out*
25 *such amendments.*

1 **Subtitle D—Modification in Pay-**
 2 **ment Policies Regarding Grad-**
 3 **uate Medical Education**

4 **SEC. 8301. INDIRECT MEDICAL EDUCATION PAYMENTS.**

5 (a) *MULTIYEAR TRANSITION REGARDING PERCENT-*
 6 *AGES; 6.7 FOR 1996 TO 5.0 FOR 2001 AND AFTERWARDS.—*

7 *Section 1886(D)(5)(B)(ii) (42 U.S.C.*
 8 *1395ww(d)(5)(B)(ii)) us amended to read as follows:*

9 “(ii) *For purposes of clause (i)(II), the indirect*
 10 *teaching adjustment factor is equal to $c \times (((1+r) to$*
 11 *the n th power) – 1), where ‘r’ is the ratio of the hos-*
 12 *pital’s full-time equivalent interns and residents to*
 13 *beds and ‘n’ equal .405. For discharges occurring on*
 14 *or after—*

15 “(I) *May 1, 1986, and before October 1,*
 16 *1995, ‘c’ is equal to 1.89;*

17 “(II) *October 1, 1995, and before October 1,*
 18 *1996, ‘c’ is equal to 1.654;*

19 “(III) *October 1, 1996, and before October*
 20 *1, 1998, ‘c’ is equal to 1.481;*

21 “(IV) *October 1, 1998, and before October 1,*
 22 *1999, ‘c’ is equal to 1.383;*

23 “(V) *October 1, 1999, and before October 1,*
 24 *2000, ‘c’ is equal to 1.309; and*

1 “(VI) October 1, 2000, ‘c’ is equal to
2 1.235.”.

3 (b) *NO RESTANDARDIZATION OF PAYMENT*
4 *AMOUNTS REQUIRED.*—Section 1886(d)(2)(C)(i) (42
5 *U.S.C. 1395ww(d)(2)(C)(i)*) is amended by striking “of
6 1985” and inserting “of 1985, but not taking into account
7 the amendments made by section 8301(a) of Medicare Pres-
8 ervation Act of 1995”.

9 **SEC. 8302. DIRECT GRADUATE MEDICAL EDUCATION.**

10 (a) *WEIGHTING FACTORS FOR RESIDENTS.*—

11 (1) *IN GENERAL.*—Section 1886(h)(4)(C)(iv) (42
12 *U.S.C. 1395ww(h)(4)(C)(iv)*) is amended by striking
13 “50” and inserting “0.25”.

14 (2) *EFFECTIVE DATE.*—The amendment made by
15 paragraph (1) shall apply with respect to cost report-
16 ing periods beginning on or after October 1, 1997.

17 (b) *LIMITATION ON AGGREGATE NUMBER OF FULL-*
18 *TIME RESIDENTS.*—

19 Section 1886(h)(4) (42 *U.S.C. 1395ww(h)(4)*) is
20 amended by adding at the end the following new subpara-
21 graph:

22 “(F) *ADJUSTMENTS FOR CERTAIN FISCAL YEARS*
23 *IN PAYMENTS FOR PROGRAMS IN ALLOPATHIC AND OS-*
24 *TEOPATHIC MEDICINE.*—

1 “(i) *IN GENERAL.*—*With respect to a cost*
2 *reporting period, the Secretary shall in accord-*
3 *ance with clause (ii) adjust the payments for ap-*
4 *proved medical residency training programs in*
5 *the fields of allopathic medicine and osteopathic*
6 *medicine if, in the fiscal year in which such cost*
7 *reporting period begins, the number of full-time-*
8 *equivalent residents determined under this para-*
9 *graph with respect to all such programs exceeds*
10 *the number of full-time-equivalent residents de-*
11 *termined with respect to all such programs as of*
12 *August 1, 1995.*

13 “(ii) *ADJUSTMENT DESCRIBED.*—*Adjust-*
14 *ments under clause (i) shall be made with re-*
15 *spect to cost reporting periods such that the total*
16 *amount of payments under this subsection for*
17 *the fiscal year involved does not exceed the*
18 *amount that would have been paid under this*
19 *subsection for such year if the number of full-*
20 *time-equivalent residents determined under*
21 *clause (i) for the year had not exceeded the num-*
22 *ber of full-time-equivalent residents with respect*
23 *to all such programs as of August 1, 1995.*

24 “(iii) *HOLD HARMLESS.*—*The Secretary*
25 *may provide that approved medical residency*

1 “(XII) for fiscal years 1997 through 2002 for
2 hospitals in all areas, the market basket percentage
3 increase minus 2.0 percentage points, and

4 “(XIII) for fiscal year 2003 and each subsequent
5 fiscal year for hospitals in all areas, the market bas-
6 ket percentage increase.”.

7 **SEC. 8402. PPS-EXEMPT HOSPITAL PAYMENTS.**

8 (a) *UPDATE.*—

9 (1) *IN GENERAL.*—Section 1886(b)(3)(B)(ii) (42
10 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

11 (A) in subclause (V)—

12 (i) by striking “1997” and inserting
13 “1995”, and

14 (ii) by striking “and” at the end,

15 (B) by redesignating subclause (VI) as
16 subclause (VII); and

17 (C) by inserting after subclause (V), the fol-
18 lowing subclause:

19 “(VI) except as provided in clause (vi), for fiscal
20 years 1996 through 2002, the market basket percent-
21 age increase minus the applicable reduction (as de-
22 fined in clause (vii)(II)); and”.

23 (2) *SPECIAL RULES FOR CERTAIN HOSPITALS.*—

24 Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B))

1 *is amended by adding at the end the following new*
2 *clause:*

3 *“(vi) For purposes of clause (ii)(VI), the ‘applicable*
4 *percentage increase’ for a hospital—*

5 *“(I) for a fiscal year for which the hospital’s up-*
6 *date adjustment percentage (as defined in clause*
7 *(vii)(I)) is at least 10 percent, is the market basket*
8 *percentage increase, and*

9 *“(II) for which 150 percent of the hospital’s al-*
10 *lowable operating costs of inpatient hospital services*
11 *recognized under this title for the most recent cost re-*
12 *porting period for which information is available is*
13 *less than the hospital’s target amount (as determined*
14 *under subparagraph (A)) for such cost reporting pe-*
15 *riod, is 0 percent.”.*

16 *(3) DEFINITIONS.—Section 1886(b)(3)(B) (42*
17 *U.S.C. 1395ww(b)(3)(B)), as amended by paragraph*
18 *(2), is amended by adding at the end the following*
19 *new clause:*

20 *“(vii) For purposes of clauses (ii)(VI) and (vi)—*

21 *“(I) a hospital’s ‘update adjustment percentage’*
22 *for a fiscal year is the percentage by which the hos-*
23 *pital’s allowable operating costs of inpatient hospital*
24 *services recognized under this title for the most recent*
25 *cost reporting period for which information is avail-*

1 *able exceeds the hospital’s target amount (as deter-*
2 *mined under subparagraph (A)) for such cost report-*
3 *ing period, and*

4 *“(II) the ‘applicable reduction’ with respect to a*
5 *hospital for a fiscal year is 2.5 percentage points, re-*
6 *duced by 0.25 percentage point for each percentage*
7 *point (if any) the hospital’s update adjustment per-*
8 *centage for the fiscal year is less than 10 percentage*
9 *points.”.*

10 (3) *EFFECT OF PAYMENT REDUCTION ON EXCEP-*
11 *TIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii)*
12 *(42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by strik-*
13 *ing “paragraph (3)(B)(ii)(V)” and inserting*
14 *“subclause (V) or (VI) of paragraph (3)(B)(ii)”.*

15 (b) *TARGET AMOUNTS FOR REHABILITATION HOS-*
16 *PITALS AND LONG-TERM CARE HOSPITALS.—Section*
17 *1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—*

18 (1) *in subparagraph (A), in the matter preceding*
19 *clause (i), by striking “and (E)” and inserting “(E),*
20 *(F), and (G)”;* and

21 (2) *by adding at the end the following new sub-*
22 *paragraphs:*

23 *“(F) In the case of a rehabilitation hospital (or unit*
24 *thereof) (as described in clause (ii) of subsection (d)(1)(B)),*

1 for cost reporting periods beginning on or after October 1,
2 1995,—

3 “(i) in the case of a hospital which first receives
4 payments under this section before October 1, 1995,
5 the target amount determined under subparagraph
6 (A) for such hospital or unit for a cost reporting pe-
7 riod beginning during a fiscal year shall not be less
8 than 50 percent of the national mean of the target
9 amounts determined under this paragraph for all
10 such hospitals for cost reporting periods beginning
11 during such fiscal year (determined without regard to
12 this subparagraph); and

13 “(ii) in the case of a hospital which first receives
14 payments under this section on or after October 1,
15 1995, such target amount may not be greater than
16 130 percent of the national mean of the target
17 amounts for such hospitals (and units thereof) for cost
18 reporting periods beginning during fiscal year 1991.

19 “(G) In the case of a hospital which has an average
20 inpatient length of stay of greater than 25 days (as de-
21 scribed in clause (iv) of subsection (d)(1)(B)), for cost re-
22 porting periods beginning on or after October 1, 1995—

23 “(i) in the case of a hospital which first receives
24 payments under this section as a hospital that is not
25 a subsection (d) hospital or a subsection (d) Puerto

1 *Rico hospital before October 1, 1995, the target*
2 *amount determined under subparagraph (A) for such*
3 *hospital for a cost reporting period beginning during*
4 *a fiscal year shall not be less than 50 percent of the*
5 *national mean of the target amounts determined*
6 *under such subparagraph for all such hospitals for*
7 *cost reporting periods beginning during such fiscal*
8 *year (determined without regard to this subpara-*
9 *graph); and*

10 *“(i) in the case of any other hospital which first*
11 *receives payment under this section as a hospital de-*
12 *scribed in clause (i) on or after October 1, 1995, such*
13 *target amount may not be greater than 130 percent*
14 *(or, if the Secretary determines it is appropriate,*
15 *such alternative percentage based on case-mix and*
16 *DRG category) of such national mean of the target*
17 *amounts for such hospitals for cost reporting periods*
18 *beginning during fiscal year 1991.”.*

19 *(c) REBASING FOR CERTAIN LONG-TERM CARE HOS-*
20 *PITALS.—*

21 *(1) IN GENERAL.—Section 1886(b)(3) (42 U.S.C.*
22 *1395ww(b)(3)), as amended by subsection (b), is*
23 *amended—*

1 (A) in subparagraph (A) in the matter pre-
2 ceding clause (i), by striking “and (G)” and in-
3 serting “(G), and (H)”;

4 (B) in subparagraph (B)(ii), by striking
5 “(A) and (E)” and inserting “(A), (E), and
6 (G)”;

7 (C) by adding at the end the following new
8 subparagraph:

9 “(H)(i) In the case of a qualified long-term care hos-
10 pital (as defined in clause (ii)), the term ‘target amount’
11 means—

12 “(I) with respect to the first 12-month cost re-
13 porting period in which this subparagraph is applied
14 to the hospital, the allowable operating costs of inpa-
15 tient hospital services (as defined in subsection (a)(4))
16 recognized under this title for the hospital for the 12-
17 month cost reporting period beginning during fiscal
18 year 1994; or

19 “(II) with respect to a later cost reporting pe-
20 riod, the target amount for the preceding cost report-
21 ing period, increased by the applicable percentage in-
22 crease under subparagraph (B)(ii) for that later cost
23 reporting period.

24 “(ii) In clause (i), a ‘qualified long-term care hospital’
25 means, with respect to a cost reporting period, a hospital

1 *described in clause (iv) of subsection (d)(1)(B) during fiscal*
2 *year 1995 for which the hospital's allowable operating costs*
3 *of inpatient hospital services recognized under this title for*
4 *each of the two most recent previous 12-month cost report-*
5 *ing periods exceeded 115 percent of the hospital's target*
6 *amount determined under this paragraph for such cost re-*
7 *porting periods, if the hospital has a disproportionate pa-*
8 *tient percentage during such cost reporting period (as deter-*
9 *mined by the Secretary under subsection (d)(5)(F)(vi) as*
10 *if the hospital were a subsection (d) hospital) of at least*
11 *70 percent.”.*

12 (2) *EFFECTIVE DATE.—The amendment made by*
13 *paragraph (1) shall apply to discharges occurring*
14 *during cost reporting periods beginning on or after*
15 *October 1, 1995.*

16 (d) *TREATMENT OF CERTAIN LONG-TERM CARE HOS-*
17 *PITALS LOCATED WITHIN OTHER HOSPITALS.—*

18 (1) *IN GENERAL.—Section 1886(d)(1)(B) (42*
19 *U.S.C. 1395ww(d)(1)(B)) is amended in the matter*
20 *following clause (v) by striking the period and insert-*
21 *ing the following: “, or a hospital classified by the*
22 *Secretary as a long-term care hospital on or before*
23 *September 30, 1995, and located in the same building*
24 *as, or on the same campus as, another hospital.”.*

1 “(I) For discharges occurring on or after October
2 1, 1995, and on or before September 30, 1996, by 5
3 percent.

4 “(II) For discharges occurring on or after Octo-
5 ber 1, 1996, and on or before September 30, 1997, by
6 10 percent.

7 “(III) For discharges occurring on or after Octo-
8 ber 1, 1997, and on or before September 30, 1998, by
9 17.5 percent.

10 “(IV) For discharges occurring on or after Octo-
11 ber 1, 1998, and on or before September 30, 1999, by
12 25 percent.

13 “(V) For discharges occurring on or after Octo-
14 ber 1, 1999, and on or before September 30, 2002, by
15 30 percent.”.

16 (b) *CONFORMING AMENDMENT RELATING TO DETER-*
17 *MINATION OF STANDARDIZED AMOUNTS.—Section*
18 *1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is*
19 *amended by striking the period at the end and inserting*
20 *the following: “, and the Secretary shall not take into ac-*
21 *count any reductions in the amount of such additional pay-*
22 *ments resulting from the amendments made by section*
23 *8403(a) of the Medicare Preservation Act of 1995.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by sub-*
2 *sections (a) and (b) shall apply to discharges occurring on*
3 *or after October 1, 1995.*

4 ***SEC. 8404. CAPITAL PAYMENTS FOR PPS HOSPITALS.***

5 (a) *REDUCTION IN PAYMENTS.*—

6 (1) *CONTINUATION OF CURRENT REDUCTIONS.*—
7 *Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A))*
8 *is amended in the second sentence—*

9 (A) *by striking “through 1995” and insert-*
10 *ing “through 2002”; and*

11 (B) *by inserting after “10 percent reduc-*
12 *tion” the following: “(or a 15 percent reduction*
13 *in the case of payments during fiscal years 1996*
14 *through 2002)”.*

15 (2) *REDUCTION IN BASE PAYMENT RATES.*—*Sec-*
16 *tion 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is*
17 *amended by adding at the end the following new sen-*
18 *tence: “In addition to the reduction described in the*
19 *preceding sentence, for discharges occurring after Sep-*
20 *tember 30, 1995, the Secretary shall reduce by 7.47*
21 *percent the unadjusted standard Federal capital pay-*
22 *ment rate (as described in 42 CFR 412.308(c), as in*
23 *effect on the date of the enactment of the Medicare*
24 *Preservation Act of 1995) and shall reduce by 8.27*
25 *percent the unadjusted hospital-specific rate (as de-*

1 scribed in 42 CFR 412.328(e)(1), as in effect on such
2 date of enactment).”.

3 (b) *HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-*
4 *RELATED TAX COSTS.*—Section 1886(g)(1) (42 U.S.C.
5 1395ww(g)(1)) is amended—

6 (1) by redesignating subparagraph (C) as sub-
7 paragraph (D), and

8 (2) by inserting after subparagraph (B) the fol-
9 lowing subparagraph:

10 “(C)(i) For discharges occurring after Sep-
11 tember 30, 1995, such system shall provide for
12 an adjustment in an amount equal to the
13 amount determined under clause (iv) for capital-
14 related tax costs for each hospital that is eligible
15 for such adjustment.

16 “(ii) Subject to clause (iii), a hospital is el-
17 igible for an adjustment under this subpara-
18 graph, with respect to discharges occurring in a
19 fiscal year, if the hospital—

20 “(I) is a hospital that may otherwise
21 receive payments under this subsection,

22 “(II) is not a public hospital, and

23 “(III) incurs capital-related tax costs
24 for the fiscal year.

1 “(iii)(I) *In the case of a hospital that first*
2 *incurs capital-related tax costs in a fiscal year*
3 *after fiscal year 1992 because of a change from*
4 *nonproprietary to proprietary status or because*
5 *the hospital commenced operation after such fis-*
6 *cal year, the first fiscal year for which the hos-*
7 *pital shall be eligible for such adjustment is the*
8 *second full fiscal year following the fiscal year in*
9 *which the hospital first incurs such costs.*

10 “(II) *In the case of a hospital that first in-*
11 *curs capital-related tax costs in a fiscal year*
12 *after fiscal year 1992 because of a change in*
13 *State or local tax laws, the first fiscal year for*
14 *which the hospital shall be eligible for such ad-*
15 *justment is the fourth full fiscal year following*
16 *the fiscal year in which the hospital first incurs*
17 *such costs.*

18 “(iv) *The per discharge adjustment under*
19 *this clause shall be equal to the hospital-specific*
20 *capital-related tax costs per discharge of a hos-*
21 *pital for fiscal year 1992 (or, in the case of a*
22 *hospital that first incurs capital-related tax costs*
23 *for a fiscal year after fiscal year 1992, for the*
24 *first full fiscal year for which such costs are in-*
25 *curring), updated to the fiscal year to which the*

1 *adjustment applies. Such per discharge adjust-*
2 *ment shall be added to the Federal capital rate,*
3 *after such rate has been adjusted as described in*
4 *42 CFR 412.312 (as in effect on the date of the*
5 *enactment of the Medicare Preservation Act of*
6 *1995), and before such rate is multiplied by the*
7 *applicable Federal rate percentage.*

8 “(v) For purposes of this subparagraph,
9 *capital-related tax costs include—*

10 “(I) *the costs of taxes on land and de-*
11 *preciable assets owned by a hospital and*
12 *used for patient care,*

13 “(II) *payments in lieu of such taxes*
14 *(made by hospitals that are exempt from*
15 *taxation), and*

16 “(III) *the costs of taxes paid by a hos-*
17 *pital as lessee of land, buildings, or fixed*
18 *equipment from a lessor that is unrelated to*
19 *the hospital under the terms of a lease that*
20 *requires the lessee to pay all expenses (in-*
21 *cluding mortgage, interest, and amortiza-*
22 *tion) and leaves the lessor with an amount*
23 *free of all claims (sometimes referred to as*
24 *a ‘net net net’ or ‘triple net’ lease).*

1 *In determining the adjustment required under*
2 *clause (i), the Secretary shall not take into ac-*
3 *count any capital-related tax costs of a hospital*
4 *to the extent that such costs are based on tax*
5 *rates and assessments that exceed those for simi-*
6 *lar commercial properties.*

7 “(vi) *The system shall provide that the Fed-*
8 *eral capital rate for any fiscal year after Sep-*
9 *tember 30, 1995, shall be reduced by a percent-*
10 *age sufficient to ensure that the adjustments re-*
11 *quired to be paid under clause (i) for a fiscal*
12 *year neither increase nor decrease the total*
13 *amount that would have been paid under this*
14 *system but for the payment of such adjustments*
15 *for such fiscal year.”.*

16 *(d) REVISION OF EXCEPTIONS PROCESS UNDER PRO-*
17 *SPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—*

18 *(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C.*
19 *1395ww(g)(1)), as amended by subsection (c), is*
20 *amended—*

21 *(A) by redesignating subparagraph (D) as*
22 *subparagraph (E), and*

23 *(B) by inserting after subparagraph (C) the*
24 *following subparagraph:*

1 “(D) *The exceptions under the system provided by the*
2 *Secretary under subparagraph (B)(iii) shall include the*
3 *provision of exception payments under the special excep-*
4 *tions process provided under 42 CFR 412.348(g) (as in ef-*
5 *fect on September 1, 1995), except that the Secretary shall*
6 *revise such process as follows:*

7 “(i) *A hospital with at least 100 beds which is*
8 *located in an urban area shall be eligible under such*
9 *process without regard to its disproportionate patient*
10 *percentage under subsection (d)(5)(F) or whether it*
11 *qualifies for additional payment amounts under such*
12 *subsection.*

13 “(ii) *The minimum payment level for qualifying*
14 *hospitals shall be 85 percent.*

15 “(iii) *A hospital shall be considered to meet the*
16 *requirement that it completes the project involved no*
17 *later than the end of the hospital’s last cost reporting*
18 *period beginning after October 1, 2001, if—*

19 “(I) *the hospital has obtained a certificate*
20 *of need for the project approved by the State or*
21 *a local planning authority by September 1,*
22 *1995, and*

23 “(II) *by September 1, 1995, the hospital has*
24 *expended on the project at least \$750,000 or 10*
25 *percent of the estimated cost of the project.*

1 “(iv) Offsetting amounts, as described in 42 CFR
2 412.348(g)(8)(ii), shall apply except that subpara-
3 graph (B) of such section shall be revised to require
4 that the additional payment that would otherwise be
5 payable for the cost reporting period shall be reduced
6 by the amount (if any) by which the hospital’s cur-
7 rent year medicare capital payments (excluding, if
8 applicable, 75 percent of the hospital’s capital-related
9 disproportionate share payments) exceeds its medicare
10 capital costs for such year.”.

11 (2) *LIMIT TO ADDITIONAL PAYMENTS.*—The
12 amendment made by paragraph (1) shall not result
13 in aggregate additional payments under the special
14 exception process described in section 1886(b)(1)(D)
15 for fiscal years 1996 through 2000 in excess of an
16 amount equal to the sum of \$50,000,000 per year
17 more than would have been paid in such fiscal years
18 if such amendment had not been enacted.

19 (3) *CONFORMING AMENDMENT.*—Section
20 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii))
21 is amended by striking “may provide” and inserting
22 “shall provide (in accordance with subparagraph
23 (D))”.

1 **SEC. 8405. REDUCTION IN PAYMENTS TO HOSPITALS FOR**
2 **ENROLLEES' BAD DEBTS.**

3 (a) *IN GENERAL.*—Section 1861(v)(1) (42 U.S.C.
4 1395x(v)(1)) is amended by adding at the end the following
5 new subparagraph:

6 “(T)(i) *In determining such reasonable costs for hos-*
7 *pitals, the amount of bad debts otherwise treated as allow-*
8 *able costs which are attributable to the deductibles and coin-*
9 *surance amounts under this title shall be reduced by—*

10 “(I) 75 percent for cost reporting periods begin-
11 ning during fiscal year 1996,

12 “(II) 60 percent for cost reporting periods begin-
13 ning during fiscal year 1997, and

14 “(III) 50 percent for subsequent cost reporting
15 periods.

16 “(ii) *Clause (i) shall not apply with respect to bad*
17 *debt of a hospital described in section 1886(d)(1)(B)(iv) if*
18 *the debt is attributable to uncollectable deductible and coin-*
19 *surance payments owed by individuals enrolled in a State*
20 *plan under title XIX or under the MediGrant program*
21 *under title XXI.”.*

22 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
23 *section (a) shall apply to hospital cost reporting periods*
24 *beginning on or after October 1, 1995.*

1 **SEC. 8406. INCREASE IN UPDATE FOR CERTAIN HOSPITALS**
2 **WITH A HIGH PROPORTION OF MEDICARE PA-**
3 **TIENTS.**

4 *Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as*
5 *amended by subsections (b) and (c)(1) of section 8402, is*
6 *amended by adding at the end the following new subpara-*
7 *graph:*

8 *“(I)(i) For purposes of subsection (d), in the case of*
9 *a medicare-dependent hospital described in clause (ii), the*
10 *applicable percentage increase otherwise determined under*
11 *subparagraph (B)(i) shall be increased by—*

12 *“(I) 0.5 percentage points for discharges occur-*
13 *ring during cost reporting periods beginning during*
14 *fiscal year 1996, and*

15 *“(II) 0.3 percentage points for discharges occur-*
16 *ring during cost reporting periods beginning during*
17 *fiscal year 1997.*

18 *“(ii) A hospital described in this clause with respect*
19 *to a cost reporting period is a subsection (d) hospital meet-*
20 *ing the following requirements:*

21 *“(I) Not less than 60 percent of the hospital’s in-*
22 *patient days during the most recent cost reporting pe-*
23 *riod for which data is available were attributable to*
24 *inpatients entitled to benefits under part A.*

25 *“(II) The hospital does not receive any addi-*
26 *tional payment amount under subsection (d)(5)(F)*

1 *(relating to payments for hospitals serving a dis-*
 2 *proportionate number of low-income patients) with*
 3 *respect to discharges occurring during the fiscal year.*

4 *“(III) The hospital does not receive any addi-*
 5 *tional payment amount under subsection (d)(5)(B)*
 6 *(relating to payment for the indirect costs of medical*
 7 *education) or subsection (h) (relating to payment for*
 8 *direct medical education costs).*

9 *“(IV) In the case of a hospital located in a rural*
 10 *area, the hospital has more than 100 beds.”.*

11 ***CHAPTER 2—PAYMENTS TO SKILLED***

12 ***NURSING FACILITIES***

13 ***Subchapter A—Prospective Payment System***

14 ***SEC. 8410. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED***

15 ***NURSING FACILITIES.***

16 *Title XVIII (42 U.S.C. 1395 et seq.) is amended by*
 17 *adding the following new section after section 1888:*

18 ***“PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING***
 19 ***FACILITIES***

20 ***“SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Not-***
 21 *withstanding any other provision of this title, the Secretary*
 22 *shall establish a prospective payment system under which*
 23 *fixed payments for episodes of care shall be made, instead*
 24 *of payments determined under section 1861(v), section*
 25 *1888, or section 1888A, to skilled nursing facilities for all*
 26 *extended care services furnished during the benefit period*

1 *established under section 1812(a)(2). Such payments shall*
2 *constitute payment for capital costs and all routine and*
3 *non-routine service costs covered under this title that are*
4 *furnished to individuals who are inpatients of skilled nurs-*
5 *ing facilities during such benefit period, except for physi-*
6 *cians' services. The payment amounts shall vary depending*
7 *on case-mix, patient acuity, and such other factors as the*
8 *Secretary determines are appropriate. The prospective pay-*
9 *ment system shall apply for cost reporting periods (or por-*
10 *tions of cost reporting periods) beginning on or after Octo-*
11 *ber 1, 1997.*

12 “(b) 90 PERCENT OF LEVELS OTHERWISE IN EF-
13 FECT.—The Secretary shall establish the prospective pay-
14 ment amounts under subsection (a) at levels such that, in
15 the Secretary's estimation, the amount of total payments
16 under this title shall not exceed 90 percent of the amount
17 of payments that would have been made under this title
18 for all routine and non-routine services and capital expend-
19 itures if this section had not been enacted.

20 “(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT
21 BENEFICIARY COST-SHARING.—The Secretary shall reduce
22 the prospective payment rates established under this section
23 to take into account the beneficiary coinsurance amount re-
24 quired under section 1813(a)(3).”.

1 *pital extended care services consisting of any of the*
2 *following:*

3 *“(A) Physical or occupational therapy or*
4 *speech-language pathology services, or res-*
5 *piratory therapy, including*
6 *supplies and support services directly related to such*
7 *services and therapy.*

8 *“(B) Prescription drugs.*

9 *“(C) Complex medical equipment.*

10 *“(D) Intravenous therapy and solutions (in-*
11 *cluding enteral and parenteral nutrients, sup-*
12 *plies, and equipment).*

13 *“(E) Radiation therapy.*

14 *“(F) Diagnostic services, including labora-*
15 *tory, radiology (including computerized tomog-*
16 *raphy services and imaging services), and pul-*
17 *monary services.*

18 *“(2) SNF MARKET BASKET PERCENTAGE IN-*
19 *CREASE.—The term ‘SNF market basket percentage*
20 *increase’ for a fiscal year means a percentage equal*
21 *to input price changes in routine service costs for the*
22 *year under section 1888(a).*

23 *“(3) STAY.—The term ‘stay’ means, with respect*
24 *to an individual who is a resident of a skilled nurs-*
25 *ing facility, a period of continuous days during*

1 *which the facility provides extended care services for*
2 *which payment may be made under this title for the*
3 *individual during the individual's spell of illness.*

4 “(b) *NEW PAYMENT METHOD FOR COVERED NON-*
5 *ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—*

6 “(1) *IN GENERAL.—The payment method estab-*
7 *lished under this section shall apply with respect to*
8 *covered non-routine services furnished during cost re-*
9 *porting periods (or portions of cost reporting periods)*
10 *beginning on or after October 1, 1995.*

11 “(2) *INTERIM PAYMENTS.—Subject to subsection*
12 *(c), a skilled nursing facility shall receive interim*
13 *payments under this title for covered non-routine*
14 *services furnished to an individual during cost report-*
15 *ing periods (or portions of cost reporting periods) de-*
16 *scribed in paragraph (1) in an amount equal to the*
17 *reasonable cost of providing such services in accord-*
18 *ance with section 1861(v). The Secretary may adjust*
19 *such payments if the Secretary determines (on the*
20 *basis of such estimated information as the Secretary*
21 *considers appropriate) that payments to the facility*
22 *under this paragraph for a cost reporting period*
23 *would substantially exceed the cost reporting period*
24 *amount determined under subsection (c)(2).*

1 “(3) *RESPONSIBILITY OF SKILLED NURSING FA-*
2 *CILITY TO MANAGE BILLINGS.*—

3 “(A) *CLARIFICATION RELATING TO PART A*
4 *BILLING.*—*In the case of a covered non-routine*
5 *service furnished to an individual who (at the*
6 *time the service is furnished) is a resident of a*
7 *skilled nursing facility who is entitled to cov-*
8 *erage under section 1812(a)(2) for such service,*
9 *the skilled nursing facility shall submit a claim*
10 *for payment under this title for such service*
11 *under part A (without regard to whether or not*
12 *the item or service was furnished by the facility,*
13 *by others under arrangement with them made by*
14 *the facility, under any other contracting or con-*
15 *sulting arrangement, or otherwise).*

16 “(B) *PART B BILLING.*—*In the case of a*
17 *covered non-routine service other than a portable*
18 *X-ray or portable electrocardiogram treated as a*
19 *physician’s service for purposes of section*
20 *1848(j)(3)) furnished to an individual who (at*
21 *the time the service is furnished) is a resident of*
22 *a skilled nursing facility who is not entitled to*
23 *coverage under section 1812(a)(2) for such serv-*
24 *ice but is entitled to coverage under part B for*
25 *such service, the skilled nursing facility shall*

1 *submit a claim for payment under this title for*
2 *such service under part B (without regard to*
3 *whether or not the item or service was furnished*
4 *by the facility, by others under arrangement*
5 *with them made by the facility, under any other*
6 *contracting or consulting arrangement, or other-*
7 *wise). This subparagraph shall not apply to phy-*
8 *sician's services furnished by a physician (as de-*
9 *fined in section 1861(r)(1)) to a resident of a*
10 *skilled nursing facility if such services are not*
11 *covered non-routine services (as defined in sec-*
12 *tion 1888A(a)(1)) or services for which routine*
13 *service costs (as defined in section 1888(e)) are*
14 *determined.*

15 *“(C) MAINTAINING RECORDS ON SERVICES*
16 *FURNISHED TO RESIDENTS.—Each skilled nurs-*
17 *ing facility receiving payments for extended care*
18 *services under this title shall document on the fa-*
19 *cility's cost report all covered non-routine serv-*
20 *ices furnished to all residents of the facility to*
21 *whom the facility provided extended care services*
22 *for which payment was made under part A or*
23 *B (including a portable X-ray or portable elec-*
24 *trocardiogram treated as a physician's service*
25 *for purposes of section 1848(j)(3)) during a fiscal*

1 year (beginning with fiscal year 1996) (without
2 regard to whether or not the services were fur-
3 nished by the facility, by others under arrange-
4 ment with them made by the facility, under any
5 other contracting or consulting arrangement, or
6 otherwise).

7 “(c) *NO PAYMENT IN EXCESS OF PRODUCT OF PER*
8 *STAY AMOUNT AND NUMBER OF STAYS.—*

9 “(1) *IN GENERAL.—*If a skilled nursing facility
10 has received aggregate payments under subsection (b)
11 for covered non-routine services during a cost report-
12 ing period beginning during a fiscal year in excess of
13 an amount equal to the cost reporting period amount
14 determined under paragraph (2), the Secretary shall
15 reduce the payments made to the facility with respect
16 to such services for cost reporting periods beginning
17 during the following fiscal year in an amount equal
18 to such excess. The Secretary shall reduce payments
19 under this subparagraph at such times and in such
20 manner during a fiscal year as the Secretary finds
21 necessary to meet the requirement of this subpara-
22 graph.

23 “(2) *COST REPORTING PERIOD AMOUNT.—*The
24 cost reporting period amount determined under this
25 subparagraph is an amount equal to the product of—

1 “(A) *the per stay amount applicable to the*
2 *facility under subsection (d) for the period; and*

3 “(B) *the number of stays beginning during*
4 *the period for which payment was made to the*
5 *facility for such services.*

6 “(3) *PROSPECTIVE REDUCTION IN PAYMENTS.—*
7 *In addition to the process for reducing payments de-*
8 *scribed in paragraph (1), the Secretary may reduce*
9 *payments made to a facility under this section during*
10 *a cost reporting period if the Secretary determines*
11 *(on the basis of such estimated information as the*
12 *Secretary considers appropriate) that payments to the*
13 *facility under this section for the period will substan-*
14 *tially exceed the cost reporting period amount for the*
15 *period determined under this paragraph.*

16 “(d) *DETERMINATION OF FACILITY PER STAY*
17 *AMOUNT.—*

18 “(1) *AMOUNT FOR FISCAL YEAR 1996.—*

19 “(A) *IN GENERAL.—*

20 “(i) *ESTABLISHMENT.—Except as pro-*
21 *vided in subparagraph (B) and clause (ii),*
22 *the Secretary shall establish a per stay*
23 *amount for each nursing facility for the 12-*
24 *month cost reporting period beginning dur-*
25 *ing fiscal year 1996 that is the facility-spe-*

1 *cific stay amount for the facility (as deter-*
2 *mined under subsection (e)) for the last 12-*
3 *month cost reporting period ending on or*
4 *before December 31, 1994, increased (in a*
5 *compounded manner) by the SNF market*
6 *basket percentage increase (as defined in*
7 *subsection (a)(2)) for each fiscal year*
8 *through fiscal year 1996.*

9 *“(ii) ADJUSTMENT IF IMPLEMENTA-*
10 *TION DELAYED.—If the amount under*
11 *clause (i) is not established prior to the cost*
12 *reporting period described in clause (i), the*
13 *Secretary shall adjust such amount for*
14 *stays after such amount is established in*
15 *such a manner so as to recover any*
16 *amounts in excess of the amounts which*
17 *would have been paid for stays before such*
18 *date if the amount had been in effect for*
19 *such stays.*

20 *“(B) FACILITIES NOT HAVING 1994 COST RE-*
21 *PORTING PERIOD.—In the case of a skilled nurs-*
22 *ing facility for which payments were not made*
23 *under this title for covered non-routine services*
24 *for the last 12-month cost reporting period end-*
25 *ing on or before December 31, 1994, the per stay*

1 *amount for the 12-month cost reporting period*
2 *beginning during fiscal year 1996 shall be the*
3 *average of all per stay amounts determined*
4 *under subparagraph (A).*

5 “(2) *AMOUNT FOR FISCAL YEAR 1997 AND SUBSE-*
6 *QUENT FISCAL YEARS.—The per stay amount for a*
7 *skilled nursing facility for a 12-month cost reporting*
8 *period beginning during a fiscal year after 1996 is*
9 *equal to the per stay amount established under this*
10 *subsection for the 12-month cost reporting period be-*
11 *ginning during the preceding fiscal year (without re-*
12 *gard to any adjustment under paragraph (1)(A)(ii)),*
13 *increased by the SNF market basket percentage in-*
14 *crease for such subsequent fiscal year minus 2.0 per-*
15 *centage points.*

16 “(e) *DETERMINATION OF FACILITY-SPECIFIC STAY*
17 *AMOUNTS.—The ‘facility-specific stay amount’ for a skilled*
18 *nursing facility for a cost reporting period is—*

19 “(1) *the sum of—*

20 “(A) *the amount of payments made to the*
21 *facility under part A during the period which*
22 *are attributable to covered non-routine services*
23 *furnished during a stay; and*

24 “(B) *the Secretary’s best estimate of the*
25 *amount of payments made under part B during*

1 *the period for covered non-routine services fur-*
2 *nished to all residents of the facility to whom the*
3 *facility provided extended care services for which*
4 *payment was made under part A during the pe-*
5 *riod (without regard to whether or not the serv-*
6 *ices were furnished by the facility, by others*
7 *under arrangement with them made by the facil-*
8 *ity under any other contracting or consulting ar-*
9 *rangement, or otherwise), as estimated by the*
10 *Secretary; divided by*

11 *“(2) the average number of days per stay for all*
12 *residents of the skilled nursing facility receiving ex-*
13 *tended care services furnished during the benefit pe-*
14 *riod established under section 1812(a)(2).*

15 “(f) *INTENSIVE NURSING OR THERAPY NEEDS.—*

16 “(1) *IN GENERAL.—In applying subsection (b) to*
17 *covered non-routine services furnished during a stay*
18 *beginning during a cost reporting period to a resident*
19 *of a skilled nursing facility who requires intensive*
20 *nursing or therapy services, the per stay amount for*
21 *such resident shall be the per stay amount developed*
22 *under paragraph (2) instead of the per stay amount*
23 *determined under subsection (d)(1)(A).*

24 “(2) *PER STAY AMOUNT FOR INTENSIVE NEED*
25 *RESIDENTS.—Upon the implementation of the pay-*

1 *ment method established under this section, the Sec-*
2 *retary, after consultation with the Medicare Payment*
3 *Review Commission and skilled nursing facility ex-*
4 *erts, shall develop and publish a per stay amount for*
5 *residents of a skilled nursing facility who require in-*
6 *tensive nursing or therapy services..*

7 *“(3) BUDGET NEUTRALITY.—The Secretary shall*
8 *adjust payments under subsection (b) in a manner*
9 *that ensures that total payments for covered non-rou-*
10 *tine services under this section are not greater or less*
11 *than total payments for such services would have been*
12 *but for the application of paragraph (1).*

13 *“(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—*

14 *“(1) IN GENERAL.—The Secretary may make ex-*
15 *ceptions and adjustments to the cost reporting period*
16 *amounts applicable to a skilled nursing facility under*
17 *subsection (c)(2) for a cost reporting period, except*
18 *that the total amount of any additional payments*
19 *made under this section for covered non-routine serv-*
20 *ices during the cost reporting period as a result of*
21 *such exceptions and adjustments may not exceed 5*
22 *percent of the aggregate payments made to all skilled*
23 *nursing facilities for covered non-routine services dur-*
24 *ing the cost reporting period (determined without re-*
25 *gard to this paragraph).*

1 “(2) *BUDGET NEUTRALITY.*—*The Secretary shall*
2 *adjust payments under subsection (b) in a manner*
3 *that ensures that total payments for covered non-rou-*
4 *tine services under this section are not greater or less*
5 *than total payments for such services would have been*
6 *but for the application of paragraph (1).*

7 “(h) *SPECIAL TREATMENT FOR MEDICARE LOW VOL-*
8 *UME SKILLED NURSING FACILITIES.*—*The Secretary shall*
9 *determine an appropriate manner in which to apply this*
10 *section, taking into account the purposes of this section, to*
11 *non-routine costs of a skilled nursing facility for which pay-*
12 *ment is made for routine service costs during a cost report-*
13 *ing period on the basis of prospective payments under sec-*
14 *tion 1888(d).*

15 “(i) *SPECIAL RULE FOR X-RAY SERVICES.*—*Before*
16 *furnishing a covered non-routine service consisting of an*
17 *X-ray service for which payment may be made under part*
18 *A or part B to a resident, a skilled nursing facility shall*
19 *consider whether furnishing the service through a provider*
20 *of portable X-ray service services would be appropriate, tak-*
21 *ing into account the cost effectiveness of the service and the*
22 *convenience to the resident.*

23 “(j) *MAINTAINING SAVINGS FROM PAYMENT SYS-*
24 *TEM.*—*The prospective payment system established under*

1 *section 1889 shall reflect the payment methodology estab-*
2 *lished under this section for covered non-routine services.”.*

3 (b) *CONFORMING AMENDMENT.*—Section 1814(b) (42
4 *U.S.C. 1395f(b)) is amended in the matter preceding para-*
5 *graph (1) by striking “1813 and 1886” and inserting*
6 *“1813, 1886, 1888, 1888A, and 1889”.*

7 ***SEC. 8413. PAYMENTS FOR ROUTINE SERVICE COSTS.***

8 (a) *MAINTAINING SAVINGS RESULTING FROM TEM-*
9 *PORARY FREEZE ON PAYMENT INCREASES.*—

10 (1) *BASING UPDATES TO PER DIEM COST LIMITS*
11 *ON LIMITS FOR FISCAL YEAR 1993.*—

12 (A) *IN GENERAL.*—*The last sentence of sec-*
13 *tion 1888(a) (42 U.S.C. 1395yy(a)) is amended*
14 *by adding at the end the following: “(except that*
15 *such updates may not take into account any*
16 *changes in the routine service costs of skilled*
17 *nursing facilities occurring during cost reporting*
18 *periods which began during fiscal year 1994 or*
19 *fiscal year 1995).”.*

20 (B) *NO EXCEPTIONS PERMITTED BASED ON*
21 *AMENDMENT.*—*The Secretary of Health and*
22 *Human Services shall not consider the amend-*
23 *ment made by subparagraph (A) in making any*
24 *adjustments pursuant to section 1888(c) of the*
25 *Social Security Act.*

1 (2) *PAYMENTS TO LOW MEDICARE VOLUME*
2 *SKILLED NURSING FACILITIES.*—*Any change made by*
3 *the Secretary of Health and Human Services in the*
4 *amount of any prospective payment paid to a skilled*
5 *nursing facility under section 1888(d) of the Social*
6 *Security Act for cost reporting periods beginning on*
7 *or after October 1, 1995, may not take into account*
8 *any changes in the costs of services occurring during*
9 *cost reporting periods which began during fiscal year*
10 *1994 or fiscal year 1995.*

11 (b) *BASING 1996 LIMITS ON NEW DEFINITION OF*
12 *ROUTINE COSTS.*—*The Secretary of Health and Human*
13 *Services shall take into account the new definition of rou-*
14 *tine service costs under section 1888(e) of the Social Secu-*
15 *rity Act, as added by section 8411, in determining the rou-*
16 *tine per diem cost limits under section 1888(a) for fiscal*
17 *year 1996 and each fiscal year thereafter.*

18 (c) *ESTABLISHMENT OF SCHEDULE FOR MAKING AD-*
19 *JUSTMENTS TO LIMITS.*—*Section 1888(c) (42 U.S.C.*
20 *1395yy(c)) is amended by striking the period at the end*
21 *of the second sentence and inserting “, and may only make*
22 *adjustments under this subsection with respect to a facility*
23 *which applies for an adjustment during an annual applica-*
24 *tion period established by the Secretary.”.*

1 (d) *LIMITATION TO EXCEPTIONS PROCESS OF THE*
2 *SECRETARY.*—Section 1888(c) (42 U.S.C. 1395yy(c)) is
3 *amended—*

4 (1) *by striking “(c) The Secretary” and inserting*
5 *“(c)(1) Subject to paragraph (2), the Secretary”;* and

6 (2) *by adding at the end the following new para-*
7 *graph:*

8 “(2) *The Secretary may not make any adjustments*
9 *under this subsection in the limits set forth in subsection*
10 *(a) for a cost reporting period beginning during a fiscal*
11 *year to the extent that the total amount of the additional*
12 *payments made under this title as a result of such adjust-*
13 *ments is greater than an amount equal to—*

14 “(A) *for cost reporting periods beginning during*
15 *fiscal year 1996, the total amount of the additional*
16 *payments made under this title as a result of adjust-*
17 *ments under this subsection for cost reporting periods*
18 *beginning during fiscal year 1994 increased (on a*
19 *compounded basis) by the SNF market basket percent-*
20 *age increase (as defined in section 1888A(a)(2)) for*
21 *each fiscal year; and*

22 “(B) *for cost reporting periods beginning during*
23 *a subsequent fiscal year, the amount determined*
24 *under this paragraph for the preceding fiscal year,*
25 *increased by the SNF market basket percentage in-*

1 *of skilled nursing facilities as such reduction is in effect*
2 *under section 1861(v)(1)(U) of the Social Security Act, as*
3 *added by subsection (a).*

4 **SEC. 8415. TREATMENT OF ITEMS AND SERVICES PAID FOR**
5 **UNDER PART B.**

6 *(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERV-*
7 *ICES TO BE MADE TO FACILITY.—*

8 *(1) IN GENERAL.—The first sentence of section*
9 *1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—*

10 *(A) by striking “and (D)” and inserting*
11 *“(D)”;* and

12 *(B) by striking the period at the end and*
13 *inserting the following: “, and (E) in the case of*
14 *an item or service (other than a portable X-ray*
15 *or portable electrocardiogram treated as a physi-*
16 *cian’s service for purposes of section 1848(j)(3))*
17 *furnished to an individual who (at the time the*
18 *item or service is furnished) is a resident of a*
19 *skilled nursing facility, payment shall be made*
20 *to the facility (without regard to whether or not*
21 *the item or service was furnished by the facility,*
22 *by others under arrangement with them made by*
23 *the facility, under any other contracting or con-*
24 *sulting arrangement, or otherwise), except that*
25 *this subparagraph shall not preclude a physician*

1 *(as defined in section 1861(r)(1)) from receiving*
2 *payment for physician’s services provided to a*
3 *resident of a skilled nursing facility if such serv-*
4 *ices are not covered non-routine services (as de-*
5 *fined in section 1888A(a)(1)) or services for*
6 *which routine service costs (as defined in section*
7 *1888(e)) are determined.”.*

8 (2) *EXCLUSION FOR ITEMS AND SERVICES NOT*
9 *BILLED BY FACILITY.—Section 1862(a) (42 U.S.C.*
10 *1395y(a)) is amended—*

11 (A) *by striking “or” at the end of para-*
12 *graph (14);*

13 (B) *by striking the period at the end of*
14 *paragraph (15) and inserting “; or”; and*

15 (C) *by inserting after paragraph (15) the*
16 *following new paragraph:*

17 “(16) *where such expenses are for covered non-*
18 *routine services (as defined in section 1888A(a)(1))*
19 *(other than a portable X-ray or portable electrocardio-*
20 *gram treated as a physician’s service for purposes of*
21 *section 1848(j)(3)) furnished to an individual who is*
22 *a resident of a skilled nursing facility and for which*
23 *the claim for payment under this title is not submit-*
24 *ted by the facility.”.*

1 (3) CONFORMING AMENDMENT.—Section
2 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by
3 striking “(2);” and inserting “(2) and section
4 1842(b)(6)(E);”.

5 (b) REDUCTION IN PAYMENTS FOR ITEMS AND SERV-
6 ICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FA-
7 CILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as
8 amended by section 8405(a) and section 8414(a), is amend-
9 ed by adding at the end the following new subparagraph:
10 “(V) In the case of an item or service furnished by
11 a skilled nursing facility (or by others under arrangement
12 with them made by a skilled nursing facility or under any
13 other contracting or consulting arrangement or otherwise)
14 for which payment is made under part B in an amount
15 determined in accordance with section 1833(a)(2)(B), the
16 Secretary shall reduce the reasonable cost for such item or
17 service otherwise determined under clause (i)(I) of such sec-
18 tion by 5.8 percent for payments attributable to portions
19 of cost reporting periods occurring during fiscal years 1996
20 through 2002.”.

21 **SEC. 8416. MEDICAL REVIEW PROCESS.**

22 In order to ensure that medicare beneficiaries are fur-
23 nished appropriate extended care services, the Secretary of
24 Health and Human Services shall establish and implement
25 a thorough medical review process to examine the effects of

1 *the amendments made by this subchapter on the quality of*
2 *extended care services furnished to medicare beneficiaries.*
3 *In developing such a medical review process, the Secretary*
4 *shall place a particular emphasis on the quality of non-*
5 *routine covered services for which payment is made under*
6 *section 1888A of the Social Security Act.*

7 ***SEC. 8417. REPORT BY MEDICARE PAYMENT REVIEW COM-***
8 ***MISSION.***

9 *Not later than October 1, 1997, the Medicare Payment*
10 *Review Commission shall submit to Congress a report on*
11 *the system under which payment is made under the medi-*
12 *care program for extended care services furnished by skilled*
13 *nursing facilities, and shall include in the report the follow-*
14 *ing:*

15 *(1) An analysis of the effect of the methodology*
16 *established under section 1888A of the Social Security*
17 *Act (as added by section 8412) on the payments for,*
18 *and the quality of, extended care services under the*
19 *medicare program.*

20 *(2) An analysis of the advisability of determin-*
21 *ing the amount of payment for covered non-routine*
22 *services of facilities (as described in such section) on*
23 *the basis of the amounts paid for such services when*
24 *furnished by suppliers under part B of the medicare*
25 *program.*

1 (3) *An analysis of the desirability of maintain-*
2 *ing separate routine cost-limits for hospital-based and*
3 *freestanding facilities in the costs of extended care*
4 *services recognized as reasonable under the medicare*
5 *program.*

6 (4) *An analysis of the quality of services fur-*
7 *nished by skilled nursing facilities.*

8 (5) *An analysis of the adequacy of the process*
9 *and standards used to provide exceptions to the limits*
10 *described in paragraph (3).*

11 (6) *An analysis of the effect of the prospective*
12 *payment methodology established under section 1889*
13 *of the Social Security Act (as added by section 8410)*
14 *on the payments for, and the quality of, extended care*
15 *services under the medicare program, including an*
16 *evaluation of the baseline used in establishing a sys-*
17 *tem for payment for extended care services furnished*
18 *by skilled nursing facilities.*

19 **SEC. 8418. EFFECTIVE DATE.**

20 *Except as otherwise provided in this subchapter, the*
21 *amendments made by this subchapter shall apply to services*
22 *furnished during cost reporting periods (or portions of cost*
23 *reporting periods) beginning on or after October 1, 1995.*

1 **CHAPTER 3—OTHER PROVISIONS**
 2 **RELATING TO PART A**

3 **SEC. 8421. PAYMENTS FOR HOSPICE SERVICES.**

4 Section 1814(i)(1)(C)(ii) (42 U.S.C.
 5 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV),
 6 (V), and (VI), and inserting the following subclauses:

7 “(IV) for fiscal years 1996 through 2002, the
 8 market basket percentage increase for the fiscal year
 9 minus 2.0 percentage points; and

10 “(V) for a subsequent fiscal year, the market bas-
 11 ket percentage increase for the fiscal year.”.

12 **SEC. 8422. PERMANENT EXTENSION OF HEMOPHILIA PASS-**
 13 **THROUGH.**

14 Effective as if included in the enactment of OBRA–
 15 1989, section 6011(d) of such Act (as amended by section
 16 13505 of OBRA–1993) is amended by striking “and shall
 17 expire September 30, 1994”.

18 **Subtitle F—Provisions Relating to**
 19 **Part B**

20 **CHAPTER 1—PAYMENT REFORMS**

21 **SEC. 8501. PAYMENTS FOR PHYSICIANS’ SERVICES.**

22 (a) ESTABLISHING UPDATE TO CONVERSION FACTOR
 23 TO MATCH SPENDING UNDER SUSTAINABLE GROWTH
 24 RATE.—

25 (1) UPDATE.—

1 (A) *IN GENERAL.*—Section 1848(d)(3) (42
2 U.S.C. 1395w-4(d)(3)) is amended to read as
3 follows:

4 “(3) *UPDATE.*—

5 “(A) *IN GENERAL.*—Unless Congress other-
6 wise provides, subject to subparagraph (E), for
7 purposes of this section the update for a year
8 (beginning with 1997) is equal to the product
9 of—

10 “(i) 1 plus the Secretary’s estimate of
11 the percentage increase in the medicare eco-
12 nomic index (described in the fourth sen-
13 tence of section 1842(b)(3)) for the year (di-
14 vided by 100), and

15 “(ii) 1 plus the Secretary’s estimate of
16 the update adjustment factor for the year
17 (divided by 100),

18 minus 1 and multiplied by 100.

19 “(B) *UPDATE ADJUSTMENT FACTOR.*—The
20 ‘update adjustment factor’ for a year is equal to
21 the quotient of—

22 “(i) the difference between (I) the sum
23 of the allowed expenditures for physicians’
24 services furnished during each of the years
25 1995 through the year involved and (II) the

1 *sum of the amount of actual expenditures*
2 *for physicians' services furnished during*
3 *each of the years 1995 through the previous*
4 *year; divided by*

5 *“(ii) the Secretary's estimate of al-*
6 *lowed expenditures for physicians' services*
7 *furnished during the year.*

8 *“(C) DETERMINATION OF ALLOWED EX-*
9 *PENDITURES.—For purposes of subparagraph*
10 *(B), allowed expenditures for physicians' services*
11 *shall be determined as follows (as estimated by*
12 *the Secretary):*

13 *“(i) In the case of allowed expenditures*
14 *for 1995, such expenditures shall be equal to*
15 *actual expenditures for services furnished*
16 *during the 12-month period ending with*
17 *June 30, 1995.*

18 *“(ii) In the case of allowed expendi-*
19 *tures for 1996 and each subsequent year,*
20 *such expenditures shall be equal to allowed*
21 *expenditures for the previous year, in-*
22 *creased by the sustainable growth rate*
23 *under subsection (f) for the fiscal year*
24 *which begins during the year.*

1 “(D) *DETERMINATION OF ACTUAL EXPENDI-*
2 *TURES.—For purposes of subparagraph (B), the*
3 *amount of actual expenditures for physicians’*
4 *services furnished during a year shall be equal to*
5 *the amount of expenditures for such services dur-*
6 *ing the 12-month period ending with June of the*
7 *previous year.*

8 “(E) *RESTRICTION ON VARIATION FROM*
9 *MEDICARE ECONOMIC INDEX.—Notwithstanding*
10 *the amount of the update adjustment factor de-*
11 *termined under subparagraph (B) for a year, the*
12 *update in the conversion factor under this para-*
13 *graph for the year may not be—*

14 “(i) *greater than 103 percent of 1 plus*
15 *the Secretary’s estimate of the percentage*
16 *increase in the medicare economic index*
17 *(described in the fourth sentence of section*
18 *1842(b)(3)) for the year (divided by 100),*
19 *minus 1 and multiplied by 100; or*

20 “(ii) *less than 93 percent of 1 plus the*
21 *Secretary’s estimate of the percentage in-*
22 *crease in the medicare economic index (de-*
23 *scribed in the fourth sentence of section*
24 *1842(b)(3)) for the year (divided by 100),*
25 *minus 1 and multiplied by 100.”.*

1 (B) *EFFECTIVE DATE.*—*The amendments*
2 *made by subparagraph (A) shall apply to physi-*
3 *cians' services furnished on or after January 1,*
4 *1997.*

5 (2) *CONFORMING AMENDMENTS.*—(A) *Section*
6 *1848(d)(2)(A) (42 U.S.C. 1395w-4(d)(2)(A)) is*
7 *amended—*

8 *(i) in the matter preceding clause (i)—*

9 (I) *by striking “(or updates) in the*
10 *conversion factor (or factors)” and inserting*
11 *“in the conversion factor”;*

12 (II) *by striking “(beginning with*
13 *1991)” and inserting “(beginning with*
14 *1996)”;* *and*

15 (III) *by striking the second sentence;*

16 (ii) *by amending clause (ii) to read as fol-*
17 *lows:*

18 *“(ii) such factors as enter into the cal-*
19 *ulation of the update adjustment factor as*
20 *described in paragraph (3)(B); and”;*

21 (iii) *by amending clause (iii) to read as fol-*
22 *lows:*

23 *“(iii) access to services.”;*

24 (iv) *by striking clauses (iv), (v), and (vi);*

25 *and*

1 (v) by striking the last sentence.

2 (B) Section 1848(d)(2)(B) (42 U.S.C. 1395w-
3 4(d)(2)(B)) is amended—

4 (i) by striking “and” at the end of clause
5 (iii);

6 (ii) by striking the period at the end of
7 clause (iv) and inserting “; and”; and

8 (iii) by adding at the end the following new
9 clause:

10 “(v) changes in volume or intensity of
11 services.”.

12 (C) Section 1848(d)(2) (42 U.S.C. 1395w4-
13 (d)(2)) is further amended—

14 (i) by striking subparagraphs (C), (D), and
15 (E);

16 (ii) by redesignating subparagraph (F) as
17 subparagraph (C); and

18 (iii) in subparagraph (C), as redesignated,
19 by striking “(or updates) in the conversion factor
20 (or factors)” and inserting “in the conversion
21 factor”.

22 (b) REPLACEMENT OF VOLUME PERFORMANCE STAND-
23 ARD WITH SUSTAINABLE GROWTH RATE.—

1 (1) *IN GENERAL.*—Section 1848(f) (42 U.S.C.
2 1395w-4(f)) is amended by striking paragraphs (2)
3 through (5) and inserting the following:

4 “(2) *SPECIFICATION OF GROWTH RATE.*—

5 “(A) *FISCAL YEAR 1996.*—The sustainable
6 growth rate for all physicians’ services for fiscal
7 year 1996 shall be equal to the product of—

8 “(i) 1 plus the Secretary’s estimate of
9 the percentage change in the medicare eco-
10 nomic index for 1996 (described in the
11 fourth sentence of section 1842(b)(3)) (di-
12 vided by 100),

13 “(ii) 1 plus the Secretary’s estimate of
14 the percentage change (divided by 100) in
15 the average number of individuals enrolled
16 under this part (other than private plan en-
17 rollees) from fiscal year 1995 to fiscal year
18 1996,

19 “(iii) 1 plus the Secretary’s estimate of
20 the projected percentage growth in real gross
21 domestic product per capita (divided by
22 100) from fiscal year 1995 to fiscal year
23 1996, plus 2 percentage points, and

24 “(iv) 1 plus the Secretary’s estimate of
25 the percentage change (divided by 100) in

1 *expenditures for all physicians' services in*
2 *fiscal year 1996 (compared with fiscal year*
3 *1995) which will result from changes in law*
4 *(including the Medicare Preservation Act of*
5 *1995), determined without taking into ac-*
6 *count estimated changes in expenditures due*
7 *to changes in the volume and intensity of*
8 *physicians' services or changes in expendi-*
9 *tures resulting from changes in the update*
10 *to the conversion factor under subsection*
11 *(d),*

12 *minus 1 and multiplied by 100.*

13 “(B) *SUBSEQUENT FISCAL YEARS.—The*
14 *sustainable growth rate for all physicians' serv-*
15 *ices for fiscal year 1997 and each subsequent fis-*
16 *cal year shall be equal to the product of—*

17 “(i) *1 plus the Secretary's estimate of*
18 *the percentage change in the medicare eco-*
19 *nomix index for the fiscal year involved (de-*
20 *scribed in the fourth sentence of section*
21 *1842(b)(3)) (divided by 100),*

22 “(ii) *1 plus the Secretary's estimate of*
23 *the percentage change (divided by 100) in*
24 *the average number of individuals enrolled*
25 *under this part (other than private plan en-*

1 rollees) from the previous fiscal year to the
2 fiscal year involved,

3 “(iii) 1 plus the Secretary’s estimate of
4 the projected percentage growth in real gross
5 domestic product per capita (divided by
6 100) from the previous fiscal year to the fis-
7 cal year involved, plus 2 percentage points,
8 and

9 “(iv) 1 plus the Secretary’s estimate of
10 the percentage change (divided by 100) in
11 expenditures for all physicians’ services in
12 the fiscal year (compared with the previous
13 fiscal year) which will result from changes
14 in law (including changes made by the Sec-
15 retary in response to section 1895), deter-
16 mined without taking into account esti-
17 mated changes in expenditures due to
18 changes in the volume and intensity of phy-
19 sicians’ services or changes in expenditures
20 resulting from changes in the update to the
21 conversion factor under subsection (d)(3),

22 minus 1 and multiplied by 100.

23 “(3) DEFINITIONS.—In this subsection:

24 “(A) SERVICES INCLUDED IN PHYSICIANS’
25 SERVICES.—The term ‘physicians’ services’ in-

1 *cludes other items and services (such as clinical*
2 *diagnostic laboratory tests and radiology serv-*
3 *ices), specified by the Secretary, that are com-*
4 *monly performed or furnished by a physician or*
5 *in a physician's office, but does not include serv-*
6 *ices furnished to a private plan enrollee.*

7 *“(B) PRIVATE PLAN ENROLLEE.—The term*
8 *‘private plan enrollee’ means, with respect to a*
9 *fiscal year, an individual enrolled under this*
10 *part who has elected to receive benefits under*
11 *this title for the fiscal year through a*
12 *MedicarePlus plan offered under part C or*
13 *through enrollment with an eligible organization*
14 *with a risk-sharing contract under section*
15 *1876.”.*

16 *(2) CONFORMING AMENDMENTS.—Section 1848(f)*
17 *(42 U.S.C. 1395w-4(f)) is amended—*

18 *(A) in the heading, by striking “VOLUME*
19 *PERFORMANCE STANDARD RATES OF INCREASE”*
20 *and inserting “SUSTAINABLE GROWTH RATE”;*

21 *(B) in paragraph (1)—*

22 *(i) in the heading, by striking “VOL-*
23 *UME PERFORMANCE STANDARD RATES OF*
24 *INCREASE” and inserting “SUSTAINABLE*
25 *GROWTH RATE”;*

1 (ii) in subparagraph (A), in the mat-
2 ter preceding clause (i), by striking “per-
3 formance standard rates of increase” and
4 inserting “sustainable growth rate”; and

5 (iii) in subparagraph (A), by striking
6 “HMO enrollees” each place such term ap-
7 pears and inserting “private plan enroll-
8 ees”;

9 (C) in subparagraph (B), by striking “per-
10 formance standard rates of increase” and insert-
11 ing “sustainable growth rate”; and

12 (D) in subparagraph (C)—

13 (i) in the heading, by striking “PER-
14 FORMANCE STANDARD RATES OF INCREASE”
15 and inserting “SUSTAINABLE GROWTH
16 RATE”;

17 (ii) in the first sentence, by striking
18 “with 1991), the performance standard
19 rates of increase” and all that follows
20 through the first period and inserting “with
21 1997), the sustainable growth rate for the
22 fiscal year beginning in that year.”; and

23 (iii) in the second sentence, by striking
24 “January 1, 1990, the performance stand-
25 ard rate of increase under subparagraph

1 (D) for fiscal year 1990” and inserting
2 “January 1, 1997, the sustainable growth
3 rate for fiscal year 1997”.

4 (c) *ESTABLISHMENT OF SINGLE CONVERSION FACTOR*
5 *FOR 1996.*—

6 (1) *IN GENERAL.*—Section 1848(d)(1) (42 U.S.C.
7 1395w-4(d)(1)) is amended—

8 (A) by redesignating subparagraph (C) as
9 subparagraph (D); and

10 (B) by inserting after subparagraph (B) the
11 following new subparagraph:

12 “(C) *SPECIAL RULE FOR 1996.*—For 1996,
13 the conversion factor under this subsection shall
14 be \$35.42 for all physicians’ services.”.

15 (2) *CONFORMING AMENDMENTS.*—Section 1848
16 (42 U.S.C. 1395w-4) is amended—

17 (A) by striking “(or factors)” each place it
18 appears in subsection (d)(1)(A) and
19 (d)(1)(D)(ii) (as redesignated by paragraph
20 (1)(a));

21 (B) in subsection (d)(1)(A), by striking “or
22 updates”;

23 (C) in subsection (d)(1)(D)(ii) (as redesi-
24 gnated by paragraph (1)(a)), by striking “(or up-
25 dates)”;

1 (D) in subsection (i)(1)(C), by striking
2 “conversion factors” and inserting “the conver-
3 sion factor”.

4 **SEC. 8502. ELIMINATION OF FORMULA-DRIVEN OVERPAY-**
5 **MENTS FOR CERTAIN OUTPATIENT HOSPITAL**
6 **SERVICES.**

7 (a) *AMBULATORY SURGICAL CENTER PROCEDURES.*—

8 Section 1833(i)(3)(B)(i)(II) (42 U.S.C.
9 1395l(i)(3)(B)(i)(II)) is amended—

10 (1) by striking “of 80 percent”; and

11 (2) by striking the period at the end and insert-
12 ing the following: “, less the amount a provider may
13 charge as described in clause (i) of section
14 1866(a)(2)(A).”.

15 (b) *RADIOLOGY SERVICES AND DIAGNOSTIC PROCE-*
16 *DURES.*—Section 1833(n)(1)(B)(i)(II) (42 U.S.C.
17 1395l(n)(1)(B)(i)(II)) is amended—

18 (1) by striking “of 80 percent”; and

19 (2) by striking the period at the end and insert-
20 ing the following: “, less the amount a provider may
21 charge as described in clause (i) of section
22 1866(a)(2)(A).”.

23 (c) *EFFECTIVE DATE.*—*The amendments made by this*
24 *section shall apply to services furnished during portions of*
25 *cost reporting periods occurring on or after October 1, 1995.*

1 **SEC. 8503. EXTENSION OF REDUCTIONS IN PAYMENTS FOR**
2 **COSTS OF HOSPITAL OUTPATIENT SERVICES.**

3 (a) *REDUCTION IN PAYMENTS FOR CAPITAL-RELATED*
4 *COSTS.*—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C.
5 1395x(v)(1)(S)(ii)(I)) is amended by striking “through
6 1998” and inserting “through 2002”.

7 (b) *REDUCTION IN PAYMENTS FOR OTHER COSTS.*—
8 Section 1861(v)(1)(S)(ii)(II) (42 U.S.C.
9 1395x(v)(1)(S)(ii)(II)) is amended by striking “through
10 1998” and inserting “through 2002”.

11 **SEC. 8504. REDUCTION IN UPDATES TO PAYMENT AMOUNTS**
12 **FOR CLINICAL DIAGNOSTIC LABORATORY**
13 **TESTS.**

14 (a) *CHANGE IN UPDATE.*—Section
15 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is
16 amended by striking “1994 and 1995” and inserting “1994
17 through 2002”.

18 (b) *LOWERING CAP ON PAYMENT AMOUNTS.*—Section
19 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

20 (1) in clause (vi), by striking “and” at the end;

21 (2) in clause (vii)—

22 (A) by inserting “and before January 1,
23 1997,” after “1995,” and

24 (B) by striking the period at the end and
25 inserting “, and”; and

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

3 “(viii) after December 31, 1996, is equal to 65
4 percent of such median.”.

5 **SEC. 8505. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.**

6 (a) *REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF*
7 *DURABLE MEDICAL EQUIPMENT.—*

8 (1) *FREEZE IN UPDATE FOR COVERED ITEMS.—*
9 *Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is*
10 *amended—*

11 (A) by striking “and” at the end of sub-
12 paragraph (A);

13 (B) in subparagraph (B)—

14 (i) by striking “a subsequent year”
15 and inserting “1993, 1994, and 1995”, and

16 (ii) by striking the period at the end
17 and inserting a semicolon; and

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

19 “(C) for each of the years 1996 through
20 2002, 0 percentage points; and

21 “(D) for a subsequent year, the percentage
22 increase in the consumer price index for all
23 urban consumers (U.S. urban average) for the
24 12-month period ending with June of the pre-
25 vious year.”.

1 (2) *UPDATE FOR ORTHOTICS AND PROSTHET-*
2 *ICS.—Section 1834(h)(4)(A) (42 U.S.C.*
3 *1395m(h)(4)(A)) is amended—*

4 (A) *by striking “and” at the end of clause*
5 *(iii);*

6 (B) *by redesignating clause (iv) as clause*
7 *(v); and*

8 (C) *by inserting after clause (iii) the follow-*
9 *ing new clause:*

10 *“(iv) for each of the years 1996*
11 *through 2002, 1 percent, and”.*

12 (b) *OXYGEN AND OXYGEN EQUIPMENT.—*

13 (1) *IN GENERAL.—Section 1834(a)(9)(C) (42*
14 *U.S.C. 1395m(a)(9)(C)) is amended—*

15 (A) *by striking “and” at the end of clause*
16 *(iii);*

17 (B) *in clause (iv)—*

18 (i) *by striking “a subsequent year”*
19 *and inserting “1993, 1994, and 1995”, and*

20 (ii) *by striking the period at the end*
21 *and inserting a semicolon; and*

22 (C) *by adding at the end the following new*
23 *clauses:*

24 *“(v) in each of the years 1996 through*
25 *2002, is the national limited monthly pay-*

1 *ment rate computed under subparagraph*
 2 *(B) for the item for the year reduced by the*
 3 *applicable percentage described in subpara-*
 4 *graph (D) (but in no case may the amount*
 5 *determined under this clause be less than 70*
 6 *percent of such national limited payment*
 7 *rate); and*

8 *“(vi) in a subsequent year, is the na-*
 9 *tional limited monthly payment rate com-*
 10 *puted under subparagraph (B) for the item*
 11 *for the year.”.*

12 (2) *APPLICABLE PERCENTAGE DESCRIBED.—Sec-*
 13 *tion 1834(a)(9) (42 1395m(a)(9)) is amended by add-*
 14 *ing at the end the following new subparagraph:*

15 *“(D) APPLICABLE PERCENTAGE DE-*
 16 *SCRIBED.—In clause (v) of subparagraph (C),*
 17 *the ‘applicable percentage’ with respect to a year*
 18 *described in such clause is—*

19 *“(i) for 1996, 20 percent,*

20 *“(ii) for 1997, 21²/₃ percent,*

21 *“(iii) for 1998, 23¹/₃ percent,*

22 *“(iv) for 1999, 25 percent,*

23 *“(v) for 2000, 26²/₃ percent,*

24 *“(vi) for 2001, 28¹/₃ percent, and*

25 *“(vii) for 2002, 30 percent.”.*

1 (c) *PAYMENT FREEZE FOR PARENTERAL AND EN-*
2 *TERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.*—*In deter-*
3 *mining the amount of payment under part B of title XVIII*
4 *of the Social Security Act with respect to parenteral and*
5 *enteral nutrients, supplies, and equipment during each of*
6 *the years 1996 through 2002, the charges determined to be*
7 *reasonable with respect to such nutrients, supplies, and*
8 *equipment may not exceed the charges determined to be rea-*
9 *sonable with respect to such nutrients, supplies, and equip-*
10 *ment during 1993.*

11 **SEC. 8506. UPDATES FOR AMBULATORY SURGICAL SERV-**
12 **ICES.**

13 Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is
14 amended—

15 (1) by striking “1996” and inserting “2003”;

16 and

17 (2) by inserting before the first sentence the fol-
18 lowing new sentence: “Notwithstanding the second
19 sentence of subparagraph (A) or the second sentence
20 of subparagraph (B), the Secretary shall not update
21 amounts established under such subparagraphs for fis-
22 cal years 1996 through 2002.”

23 **SEC. 8507. PAYMENTS FOR AMBULANCE SERVICES.**

24 Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amend-
25 ed by section 8405(a), section 8414(a), and section 8415(b),

1 *is amended by adding at the end the following new subpara-*
2 *graph:*

3 “(W) *In determining the reasonable cost or*
4 *charge of ambulance services for fiscal years 1996*
5 *through 2002, the Secretary shall not recognize any*
6 *costs in excess of costs recognized as reasonable for fis-*
7 *cal year 1995.”.*

8 **SEC. 8508. ENSURING PAYMENT FOR PHYSICIAN AND**
9 **NURSE FOR JOINTLY FURNISHED ANESTHE-**
10 **SIA SERVICES.**

11 *(a) PAYMENT FOR JOINTLY FURNISHED SINGLE*
12 *CASE.—*

13 (1) *PAYMENT TO PHYSICIAN.—Section*
14 *1848(a)(4) (42 U.S.C. 1395w-4(a)(4)) is amended by*
15 *adding at the end the following new subparagraph:*

16 “(C) *PAYMENT FOR SINGLE CASE.—Not-*
17 *withstanding section 1862(a)(1)(A), with respect*
18 *to physicians’ services consisting of the furnish-*
19 *ing of anesthesia services for a single case that*
20 *are furnished jointly with a certified registered*
21 *nurse anesthetist, if the carrier determines that*
22 *the use of both the physician and the nurse anes-*
23 *thetist to furnish the anesthesia service was not*
24 *medically necessary, the fee schedule amount for*
25 *the physicians’ services shall be equal to 50 per-*

1 cent (or 55 percent, in the case of services fur-
2 nished during 1996 or 1997) of the fee schedule
3 amount applicable under this section for anesthe-
4 sia services personally performed by the physi-
5 cian alone (without regard to this subpara-
6 graph). Nothing in this subparagraph may be
7 construed to affect the application of any provi-
8 sion of law regarding balance billing.”.

9 (2) *PAYMENT TO CRNA.*—Section 1833(l)(4)(B)
10 (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at
11 the end the following new clause:

12 “(iv) Notwithstanding section 1862(a)(1)(A), in the
13 case of services of a certified registered nurse anesthetist
14 consisting of the furnishing of anesthesia services for a sin-
15 gle case that are furnished jointly with a physician, if the
16 carrier determines that the use of both the physician and
17 the nurse anesthetist to furnish the anesthesia service was
18 not medically necessary, the fee schedule amount for the
19 services furnished by the certified registered nurse anes-
20 thetist shall be equal to 50 percent (or 40 percent, in the
21 case of services furnished during 1996 or 1997) of the fee
22 schedule amount applicable under section 1848 for anesthe-
23 sia services personally performed by the physician alone
24 (without regard to this clause).”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
2 *sections (a) shall apply to services furnished on or after*
3 *July 1, 1996.*

4 **CHAPTER 2—PART B PREMIUM**

5 **SEC. 8511. PROMOTING SOLVENCY OF PART A TRUST FUND**
6 **THROUGH PART B PREMIUM.**

7 (a) *IN GENERAL.*—*Section 1839(e)(1) (42 U.S.C.*
8 *1395r(e)(1)) is amended—*

9 (1) *in subparagraph (A), by striking “1999” and*
10 *inserting “2003”, and*

11 (2) *by adding at the end the following new sub-*
12 *paragraph:*

13 “(C)(i) *For each month beginning with January 1996*
14 *through December 2002, the amount of the monthly pre-*
15 *mium under this part shall be increased by an amount*
16 *equal to 13 percent of the monthly actuarial rate for enroll-*
17 *ees age 65 and over, as determined under subsection (a)(1)*
18 *and applicable to such month.*

19 “(ii) *The Secretary shall transfer amounts received*
20 *pursuant to clause (i) to the Federal Hospital Insurance*
21 *Trust Fund.*

22 “(iii) *In applying section 1844(a), amounts attrib-*
23 *utable to clause (i) shall not be counted in determining the*
24 *dollar amount of the premium per enrollee under para-*
25 *graph (1)(A) or (1)(B).”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
2 *section (a) apply to premiums for months beginning with*
3 *January 1996.*

4 ***SEC. 8512. INCOME-RELATED REDUCTION IN MEDICARE***
5 ***SUBSIDY.***

6 (a) *IN GENERAL.*—*Section 1839 (42 U.S.C. 1395r) is*
7 *amended by adding at the end the following:*

8 “(h)(1) *Notwithstanding the previous subsections of*
9 *this section, in the case of an individual whose modified*
10 *adjusted gross income for a taxable year ending with or*
11 *within a calendar year (as initially determined by the Sec-*
12 *retary in accordance with paragraph (3)) exceeds the*
13 *threshold amount described in paragraph (5)(B), the Sec-*
14 *retary shall increase the amount of the monthly premium*
15 *for months in the calendar year by an amount equal to*
16 *the difference between—*

17 “(A) *200 percent of the monthly actuarial rate*
18 *for enrollees age 65 and over as determined under*
19 *subsection (a)(1) for that calendar year; and*

20 “(B) *the total of the monthly premiums paid by*
21 *the individual under this section (determined without*
22 *regard to subsection (b)) during such calendar year.*

23 “(2) *In the case of an individual described in para-*
24 *graph (1) whose modified adjusted gross income exceeds the*
25 *threshold amount by less than \$50,000, the amount of the*

1 *increase in the monthly premium applicable under para-*
2 *graph (1) shall be an amount which bears the same ratio*
3 *to the amount of the increase described in paragraph (1)*
4 *(determined without regard to this paragraph) as such ex-*
5 *cess bears to \$50,000. In the case of a joint return filed*
6 *under section 6013 of the Internal Revenue Code of 1986*
7 *by spouses both of whom are enrolled under this part, the*
8 *previous sentence shall be applied by substituting ‘\$60,000’*
9 *for ‘\$50,000’. The preceding provisions of this paragraph*
10 *shall not apply to any individual whose threshold amount*
11 *is zero.*

12 “(3) *The Secretary shall make an initial determina-*
13 *tion of the amount of an individual’s modified adjusted*
14 *gross income for a taxable year ending with or within a*
15 *calendar year for purposes of this subsection as follows:*

16 “(A) *Not later than September 1 of the year pre-*
17 *ceding the year, the Secretary shall provide notice to*
18 *each individual whom the Secretary finds (on the*
19 *basis of the individual’s actual modified adjusted*
20 *gross income for the most recent taxable year for*
21 *which such information is available or other informa-*
22 *tion provided to the Secretary by the Secretary of the*
23 *Treasury) will be subject to an increase under this*
24 *subsection that the individual will be subject to such*
25 *an increase, and shall include in such notice the Sec-*

1 *retary's estimate of the individual's modified adjusted*
2 *gross income for the year.*

3 *“(B) If, during the 30-day period beginning on*
4 *the date notice is provided to an individual under*
5 *subparagraph (A), the individual provides the Sec-*
6 *retary with information on the individual's antici-*
7 *ipated modified adjusted gross income for the year, the*
8 *amount initially determined by the Secretary under*
9 *this paragraph with respect to the individual shall be*
10 *based on the information provided by the individual.*

11 *“(C) If an individual does not provide the Sec-*
12 *retary with information under subparagraph (B), the*
13 *amount initially determined by the Secretary under*
14 *this paragraph with respect to the individual shall be*
15 *the amount included in the notice provided to the in-*
16 *dividual under subparagraph (A).*

17 *“(4)(A) If the Secretary determines (on the basis of*
18 *final information provided by the Secretary of the Treas-*
19 *ury) that the amount of an individual's actual modified*
20 *adjusted gross income for a taxable year ending with or*
21 *within a calendar year is less than or greater than the*
22 *amount initially determined by the Secretary under para-*
23 *graph (3), the Secretary shall increase or decrease the*
24 *amount of the individual's monthly premium under this*
25 *section (as the case may be) for months during the following*

1 *calendar year by an amount equal to $\frac{1}{12}$ of the difference*
2 *between—*

3 “(i) *the total amount of all monthly premiums*
4 *paid by the individual under this section during the*
5 *previous calendar year; and*

6 “(ii) *the total amount of all such premiums*
7 *which would have been paid by the individual during*
8 *the previous calendar year if the amount of the indi-*
9 *vidual’s modified adjusted gross income initially de-*
10 *termined under paragraph (3) were equal to the ac-*
11 *tual amount of the individual’s modified adjusted*
12 *gross income determined under this paragraph.*

13 “(B)(i) *In the case of an individual for whom the*
14 *amount initially determined by the Secretary under para-*
15 *graph (3) is based on information provided by the individ-*
16 *ual under subparagraph (B) of such paragraph, if the Sec-*
17 *retary determines under subparagraph (A) that the amount*
18 *of the individual’s actual modified adjusted gross income*
19 *for a taxable year is greater than the amount initially de-*
20 *termined under paragraph (3), the Secretary shall increase*
21 *the amount otherwise determined for the year under sub-*
22 *paragraph (A) by interest in an amount equal to the sum*
23 *of the amounts determined under clause (ii) for each of the*
24 *months described in clause (i).*

1 “(ii) Interest shall be computed for any month in an
2 amount determined by applying the underpayment rate es-
3 tablished under section 6621 of the Internal Revenue Code
4 of 1986 (compounded daily) to any portion of the difference
5 between the amount initially determined under paragraph
6 (3) and the amount determined under subparagraph (A)
7 for the period beginning on the first day of the month begin-
8 ning after the individual provided information to the Sec-
9 retary under subparagraph (B) of paragraph (3) and end-
10 ing 30 days before the first month for which the individual’s
11 monthly premium is increased under this paragraph.

12 “(iii) Interest shall not be imposed under this subpara-
13 graph if the amount of the individual’s modified adjusted
14 gross income provided by the individual under subpara-
15 graph (B) of paragraph (3) was not less than the individ-
16 ual’s modified adjusted gross income determined on the
17 basis of information shown on the return of tax imposed
18 by chapter 1 of the Internal Revenue Code of 1986 for the
19 taxable year involved.

20 “(C) In the case of an individual who is not enrolled
21 under this part for any calendar year for which the individ-
22 ual’s monthly premium under this section for months dur-
23 ing the year would be increased pursuant to subparagraph
24 (A) if the individual were enrolled under this part for the
25 year, the Secretary may take such steps as the Secretary

1 *considers appropriate to recover from the individual the*
2 *total amount by which the individual's monthly premium*
3 *for months during the year would have been increased*
4 *under subparagraph (A) if the individual were enrolled*
5 *under this part for the year.*

6 “(D) *In the case of a deceased individual for whom*
7 *the amount of the monthly premium under this section for*
8 *months in a year would have been decreased pursuant to*
9 *subparagraph (A) if the individual were not deceased, the*
10 *Secretary shall make a payment to the individual's surviv-*
11 *ing spouse (or, in the case of an individual who does not*
12 *have a surviving spouse, to the individual's estate) in an*
13 *amount equal to the difference between—*

14 “(i) *the total amount by which the individual's*
15 *premium would have been decreased for all months*
16 *during the year pursuant to subparagraph (A); and*

17 “(ii) *the amount (if any) by which the individ-*
18 *ual's premium was decreased for months during the*
19 *year pursuant to subparagraph (A).*

20 “(5) *In this subsection, the following definitions apply:*

21 “(A) *The term ‘modified adjusted gross income’*
22 *means adjusted gross income (as defined in section 62*
23 *of the Internal Revenue Code of 1986)—*

24 “(i) *determined without regard to sections*
25 *135, 911, 931, and 933 of such Code, and*

1 “(ii) increased by the amount of interest re-
2 ceived or accrued by the taxpayer during the
3 taxable year which is exempt from tax under
4 such Code.

5 “(B) The term ‘threshold amount’ means—

6 “(i) except as otherwise provided in this
7 paragraph, \$60,000,

8 “(ii) \$90,000, in the case of a joint return
9 (as defined in section 7701(a)(38) of such Code),
10 and

11 “(iii) zero in the case of a taxpayer who—

12 “(I) is married at the close of the tax-
13 able year but does not file a joint return (as
14 so defined) for such year, and

15 “(II) does not live apart from his
16 spouse at all times during the taxable year.

17 “(6)(A) The Secretary shall transfer amounts received
18 pursuant to this subsection to the Federal Hospital Insur-
19 ance Trust Fund.

20 “(B) In applying section 1844(a), amounts attrib-
21 utable to clause (i) shall not be counted in determining the
22 dollar amount of the premium per enrollee under para-
23 graph (1)(A) or (1)(B).”.

24 (b) CONFORMING AMENDMENTS.—(1) Section 1839 (42
25 U.S.C. 1395r) is amended—

1 (A) in subsection (a)(2), by inserting “or section
2 1839A” after “subsections (b) and (e)”;

3 (B) in subsection (a)(3) of section 1839(a), by
4 inserting “or section 1839A” after “subsection (e)”;

5 (C) in subsection (b), inserting “(and as in-
6 creased under section 1839A)” after “subsection (a) or
7 (e)”;

8 (D) in subsection (f), by striking “if an individ-
9 ual” and inserting the following: “if an individual
10 (other than an individual subject to an increase in
11 the monthly premium under this section pursuant to
12 subsection (h))”.

13 (2) Section 1840(c) (42 U.S.C. 1395r(c)) is amended
14 by inserting “or an individual determines that the estimate
15 of modified adjusted gross income used in determining
16 whether the individual is subject to an increase in the
17 monthly premium under section 1839 pursuant to sub-
18 section (h) of such section (or in determining the amount
19 of such increase) is too low and results in a portion of the
20 premium not being deducted,” before “he may”.

21 (c) *REPORTING REQUIREMENTS FOR SECRETARY OF*
22 *THE TREASURY.*—

23 (1) *IN GENERAL.*—Subsection (l) of section 6103
24 of the Internal Revenue Code of 1986 (relating to con-
25 fidentiality and disclosure of returns and return in-

1 *formation) is amended by adding at the end the fol-*
2 *lowing new paragraph:*

3 *“(15) DISCLOSURE OF RETURN INFORMATION TO*
4 *CARRY OUT INCOME-RELATED REDUCTION IN MEDI-*
5 *CARE PART B PREMIUM.—*

6 *“(A) IN GENERAL.—The Secretary may,*
7 *upon written request from the Secretary of*
8 *Health and Human Services, disclose to officers*
9 *and employees of the Health Care Financing Ad-*
10 *ministration return information with respect to*
11 *a taxpayer who is required to pay a monthly*
12 *premium under section 1839 of the Social Secu-*
13 *rity Act. Such return information shall be lim-*
14 *ited to—*

15 *“(i) taxpayer identity information*
16 *with respect to such taxpayer,*

17 *“(ii) the filing status of such taxpayer,*

18 *“(iii) the adjusted gross income of such*
19 *taxpayer,*

20 *“(iv) the amounts excluded from such*
21 *taxpayer’s gross income under sections 135*
22 *and 911,*

23 *“(v) the interest received or accrued*
24 *during the taxable year which is exempt*

1 *from the tax imposed by chapter 1 to the extent*
2 *such information is available, and*

3 *“(vi) the amounts excluded from such*
4 *taxpayer’s gross income by sections 931 and*
5 *933 to the extent such information is avail-*
6 *able.*

7 *“(B) RESTRICTION ON USE OF DISCLOSED*
8 *INFORMATION.—Return information disclosed*
9 *under subparagraph (A) may be used by officers*
10 *and employees of the Health Care Financing Ad-*
11 *ministration only for the purposes of, and to the*
12 *extent necessary in, establishing the appropriate*
13 *monthly premium under section 1839 of the So-*
14 *cial Security Act.”*

15 (2) *CONFORMING AMENDMENT.—Paragraphs*
16 (3)(A) and (4) of section 6103(p) of such Code are
17 each amended by striking “or (14)” each place it ap-
18 pears and inserting “(14), or (15)”.

19 (d) *EFFECTIVE DATE.—*

20 (1) *IN GENERAL.—The amendments made by*
21 subsections (a) and (b) shall apply to the monthly
22 premium under section 1839 of the Social Security
23 Act for months beginning with January 1997.

24 (2) *INFORMATION FOR PRIOR YEARS.—The Sec-*
25 retary of Health and Human Services may request

1 “(2) *TYPES OF SERVICES.*—*The types of home*
2 *health services described in this paragraph are the fol-*
3 *lowing:*

4 “(A) *Part-time or intermittent nursing care*
5 *provided by or under the supervision of a reg-*
6 *istered professional nurse.*

7 “(B) *Physical therapy.*

8 “(C) *Occupational therapy.*

9 “(D) *Speech-language pathology services.*

10 “(E) *Medical social services under the direc-*
11 *tion of a physician.*

12 “(F) *To the extent permitted in regulations,*
13 *part-time or intermittent services of a home*
14 *health aide who has successfully completed a*
15 *training program approved by the Secretary.*

16 “(b) *ESTABLISHMENT OF PER VISIT RATE FOR EACH*
17 *TYPE OF SERVICES.*—

18 “(1) *IN GENERAL.*—*The Secretary shall, subject*
19 *to paragraph (3), establish a per visit payment rate*
20 *for a home health agency in an area (which shall be*
21 *the same area used to determine the area wage index*
22 *applicable to hospitals under section 1886(d)(3)(E))*
23 *for each type of home health service described in sub-*
24 *section (a)(2). Such rate shall be equal to the national*
25 *per visit payment rate determined under paragraph*

1 (2) for each such type, except that the labor-related
2 portion of such rate shall be adjusted by the area
3 wage index applicable under section 1886(d)(3)(E)
4 for the area in which the agency is located (as deter-
5 mined without regard to any reclassification of the
6 area under section 1886(d)(8)(B) or a decision of the
7 Medicare Geographic Classification Review Board or
8 the Secretary under section 1886(d)(10) for cost re-
9 porting periods beginning after October 1, 1995).

10 “(2) NATIONAL PER VISIT PAYMENT RATE.—The
11 national per visit payment rate for each type of serv-
12 ice described in subsection (a)(2)—

13 “(A) for fiscal year 1997, is an amount
14 equal to the national average amount paid per
15 visit under this title to home health agencies for
16 such type of service during the most recent 12-
17 month cost reporting period ending on or before
18 June 30, 1994; and

19 “(B) for each subsequent fiscal year, is an
20 amount equal to the national per visit payment
21 rate in effect for the preceding fiscal year, in-
22 creased by the home health market basket per-
23 centage increase for such subsequent fiscal year
24 minus 2.0 percentage points.

1 “(3) *REBASING OF RATES.*—*The Secretary shall*
2 *adjust the national per visit payment rates under this*
3 *subsection for cost reporting periods beginning on or*
4 *after October 1, 1999, and every 5 years thereafter, to*
5 *reflect the most recent available data.*

6 “(4) *HOME HEALTH MARKET BASKET PERCENT-*
7 *AGE INCREASE.*—*For purposes of this subsection, the*
8 *term ‘home health market basket percentage increase’*
9 *means, with respect to a fiscal year, a percentage (es-*
10 *timated by the Secretary before the beginning of the*
11 *fiscal year) determined and applied with respect to*
12 *the types of home health services described in sub-*
13 *section (a)(2) in the same manner as the market bas-*
14 *ket percentage increase under section*
15 *1886(b)(3)(B)(iii) is determined and applied to inpa-*
16 *tient hospital services for the fiscal year.*

17 “(c) *PER EPISODE LIMIT.*—

18 “(1) *AGGREGATE LIMIT.*—

19 “(A) *IN GENERAL.*—*Except as provided in*
20 *paragraph (2), a home health agency may not*
21 *receive aggregate per visit payments under sub-*
22 *section (a) for a fiscal year in excess of an*
23 *amount equal to the sum of the following prod-*
24 *ucts determined for each case-mix category for*
25 *which the agency receives payments:*

1 “(i) *The number of episodes of each*
2 *such case-mix category during the fiscal*
3 *year; multiplied by*

4 “(ii) *the per episode limit determined*
5 *for such case-mix category for such fiscal*
6 *year.*

7 “(B) *ESTABLISHMENT OF PER EPISODE*
8 *LIMITS.—*

9 “(i) *IN GENERAL.—The per episode*
10 *limit for a fiscal year for any case-mix cat-*
11 *egory for the area in which a home health*
12 *agency is located (which shall be the same*
13 *area used to determine the area wage index*
14 *applicable to hospitals under section*
15 *1886(d)(3)(E)) is equal to—*

16 “(I) *the mean number of visits for*
17 *each type of home health service de-*
18 *scribed in subsection (a)(2) furnished*
19 *during an episode of such case-mix cat-*
20 *egory in such area during fiscal year*
21 *1994, adjusted by the case-mix adjust-*
22 *ment factor determined in clause (ii)*
23 *for the fiscal year involved; multiplied*
24 *by*

1 “(II) the per visit payment rate
2 established under subsection (b) for
3 such type of home health service for the
4 fiscal year for which the determination
5 is being made.

6 “(ii) CASE-MIX ADJUSTMENT FAC-
7 TOR.—For purposes of clause (i), the case-
8 mix adjustment factor for a year for—

9 “(I) each of fiscal years 1997
10 through 2000 is the factor determined
11 by the Secretary to assure that aggre-
12 gate payments for home health services
13 under this section during the year will
14 not exceed the payment for such serv-
15 ices during the previous year as a re-
16 sult of changes in the number and type
17 of home health visits within case-mix
18 categories over the previous year; and

19 “(II) each subsequent fiscal year,
20 is the factor determined by the Sec-
21 retary necessary to remove the effects of
22 case-mix increases due to reporting im-
23 provements instead of real changes in
24 patients’ resource usage.

1 “(iii) *REBASING OF PER EPISODE LIM-*
2 *ITS.—Beginning with fiscal year 1999 and*
3 *every 5 years thereafter, the Secretary shall*
4 *revise the mean number of home health vis-*
5 *its determined under clause (i)(I) for each*
6 *type of home health service visit described*
7 *in subsection (a)(2) furnished during an*
8 *episode in a case-mix category to reflect the*
9 *most recently available data on the number*
10 *of visits.*

11 “(iv) *DETERMINATION OF AREA.—In*
12 *the case of an area which the Secretary de-*
13 *termines has an insufficient number of*
14 *home health agencies to establish an appro-*
15 *priate per episode limit, the Secretary may*
16 *establish an area other than the area used*
17 *to determine the area wage under section*
18 *1886(d)(3)(E)) for purposes of establishing*
19 *an appropriate per episode limit.*

20 “(C) *CASE-MIX CATEGORY.—For purposes of*
21 *this paragraph, the term ‘case-mix category’*
22 *means each of the 18 case-mix categories estab-*
23 *lished under the Home Health Agency Prospec-*
24 *tive Payment Demonstration Project conducted*
25 *by the Health Care Financing Administration.*

1 *The Secretary may develop an alternate meth-*
2 *odology for determining case-mix categories.*

3 “(D) *EPISODE.*—

4 “(i) *IN GENERAL.*—*For purposes of*
5 *this paragraph, the term ‘episode’ means the*
6 *continuous 120-day period that—*

7 “(I) *begins on the date of an indi-*
8 *vidual’s first visit for a type of home*
9 *health service described in subsection*
10 *(a)(2) for a case-mix category, and*

11 “(II) *is immediately preceded by*
12 *a 60-day period in which the individ-*
13 *ual did not receive visits for a type of*
14 *home health service described in sub-*
15 *section (a)(2).*

16 “(ii) *TREATMENT OF EPISODES SPAN-*
17 *NING COST REPORTING PERIODS.*—*The Sec-*
18 *retary shall provide for such rules as the*
19 *Secretary considers appropriate regarding*
20 *the treatment of episodes under this para-*
21 *graph which begin during a cost reporting*
22 *period and end in a subsequent cost report-*
23 *ing period.*

24 “(E) *EXEMPTIONS AND EXCEPTIONS.*—*The*
25 *Secretary may provide for exemptions and excep-*

1 *tions to the limits established under this para-*
2 *graph for a fiscal year as the Secretary deems*
3 *appropriate, to the extent such exemptions and*
4 *exceptions do not result in greater payments*
5 *under this section than the exemptions and ex-*
6 *ceptions provided under section 1861(v)(1)(L)(ii)*
7 *in fiscal year 1994, increased by the home health*
8 *market basket percentage increase for the fiscal*
9 *year involved (as defined in subsection (b)(4)).*

10 *“(2) RECONCILIATION OF AMOUNTS.—*

11 *“(A) PAYMENTS IN EXCESS OF LIMITS.—*
12 *Subject to subparagraph (B), if a home health*
13 *agency has received aggregate per visit payments*
14 *under subsection (a) for a fiscal year in excess*
15 *of the amount determined under paragraph (1)*
16 *with respect to such home health agency for such*
17 *fiscal year, the Secretary shall reduce payments*
18 *under this section to the home health agency in*
19 *the following fiscal year in such manner as the*
20 *Secretary considers appropriate (including on*
21 *an installment basis) to recapture the amount of*
22 *such excess.*

23 *“(B) EXCEPTION FOR HOME HEALTH SERV-*
24 *ICES FURNISHED OVER A PERIOD GREATER THAN*
25 *165 DAYS.—*

1 “(i) *IN GENERAL.*—For purposes of
2 *subparagraph (A), the amount of aggregate*
3 *per visit payments determined under sub-*
4 *section (a) shall not include payments for*
5 *home health visits furnished to an individ-*
6 *ual on or after a continuous period of more*
7 *than 165 days after an individual begins*
8 *an episode described in subsection (c)(1)(D)*
9 *(if such period is not interrupted by the be-*
10 *ginning of a new episode).*

11 “(ii) *REQUIREMENT OF CERTIFI-*
12 *CATION.*—Clause (i) shall not apply if the
13 *agency has not obtained a physician’s cer-*
14 *tification with respect to the individual re-*
15 *quiring such visits that includes a state-*
16 *ment that the individual requires such con-*
17 *tinued visits, the reason for the need for*
18 *such visits, and a description of such serv-*
19 *ices furnished during such visits.*

20 “(C) *SHARE OF SAVINGS.*—

21 “(i) *BONUS PAYMENTS.*—If a home
22 *health agency has received aggregate per*
23 *visit payments under subsection (a) for a*
24 *fiscal year in an amount less than the*
25 *amount determined under paragraph (1)*

1 *with respect to such home health agency for*
2 *such fiscal year, the Secretary shall pay*
3 *such home health agency a bonus payment*
4 *equal to 50 percent of the difference between*
5 *such amounts in the following fiscal year,*
6 *except that the bonus payment may not ex-*
7 *ceed 5 percent of the aggregate per visit*
8 *payments made to the agency for the year.*

9 “(ii) *INSTALLMENT BONUS PAY-*
10 *MENTS.—The Secretary may make install-*
11 *ment payments during a fiscal year to a*
12 *home health agency based on the estimated*
13 *bonus payment that the agency would be el-*
14 *igible to receive with respect to such fiscal*
15 *year.*

16 “(d) *MEDICAL REVIEW PROCESS.—The Secretary*
17 *shall implement a medical review process (with a particu-*
18 *lar emphasis on fiscal years 1997 and 1998) for the system*
19 *of payments described in this section that shall provide an*
20 *assessment of the pattern of care furnished to individuals*
21 *receiving home health services for which payments are made*
22 *under this section to ensure that such individuals receive*
23 *appropriate home health services. Such review process shall*
24 *focus on low-cost episodes (as defined by the Secretary*
25 *under section (e)(3)(C)) and cases described in subsection*

1 *(c)(2)(B) and shall require recertification by intermediaries*
2 *at 60 and 165 days into an episode described in subsection*
3 *(c)(1)(D).*

4 “(e) *ADJUSTMENT OF PAYMENTS TO AVOID CIR-*
5 *CUMVENTION OF LIMITS.—*

6 “(1) *IN GENERAL.—The Secretary shall provide*
7 *for appropriate adjustments to payments to home*
8 *health agencies under this section to ensure that agen-*
9 *cies do not circumvent the purpose of this section*
10 *by—*

11 “(A) *discharging patients to another home*
12 *health agency or similar provider;*

13 “(B) *altering corporate structure or name*
14 *to avoid being subject to this section or for the*
15 *purpose of increasing payments under this title;*
16 *or*

17 “(C) *undertaking other actions considered*
18 *unnecessary for effective patient care and in-*
19 *tended to achieve maximum payments under this*
20 *title.*

21 “(2) *TRACKING OF PATIENTS THAT SWITCH*
22 *HOME HEALTH AGENCIES DURING EPISODE.—*

23 “(A) *DEVELOPMENT OF SYSTEM.—The Sec-*
24 *retary shall develop a system that tracks home*
25 *health patients that receive home health services*

1 *described in subsection (a)(2) from more than 1*
2 *home health agency during an episode described*
3 *in subsection (c)(1)(D).*

4 “(B) *ADJUSTMENT OF PAYMENTS.*—*The*
5 *Secretary shall adjust payments under this sec-*
6 *tion to each home health agency that furnishes*
7 *an individual with a type of home health service*
8 *described in subsection (a)(2) to ensure that ag-*
9 *gregate payments on behalf of such individual*
10 *during such episode do not exceed the amount*
11 *that would be paid under this section if the indi-*
12 *vidual received such services from a single home*
13 *health agency.*

14 “(3) *LOW-COST CASES.*—

15 “(A) *IN GENERAL.*—*The Secretary shall de-*
16 *velop and implement a system designed to adjust*
17 *payments to a home health agency for a fiscal*
18 *year to eliminate any increase in growth of the*
19 *percentage distribution of low-cost episodes for*
20 *which home health services are furnished by the*
21 *agency over such percentage distribution deter-*
22 *mined for the agency under subparagraph (B).*

23 “(B) *DISTRIBUTION.*—*The Secretary shall*
24 *profile each home health agency to determine the*
25 *distribution of all episodes by length of stay for*

1 *each agency during the agency's first 12-month*
2 *cost reporting period beginning during fiscal*
3 *year 1994.*

4 “(C) *LOW-COST EPISODE.*—*For purposes of*
5 *this paragraph, the Secretary shall define a low-*
6 *cost episode in a manner that provides that a*
7 *home health agency has an incentive to be cost*
8 *efficient in delivering home health services and*
9 *that the volume of such services does not increase*
10 *as a result of factors other than patient needs.*

11 “(f) *SPECIAL RULE FOR CHRISTIAN SCIENCE PROVID-*
12 *ERS.*—

13 “(1) *PAYMENT PERMITTED FOR SERVICES.*—*Not-*
14 *withstanding any other provision of this title, pay-*
15 *ment shall be made under this title for home health*
16 *services furnished by Christian Science providers who*
17 *meet applicable requirements of the First Church of*
18 *Christ, Scientist, Boston, Massachusetts, and are cer-*
19 *tified for purposes of this title under criteria estab-*
20 *lished by the Secretary, in accordance with a pay-*
21 *ment methodology established by the Secretary.*

22 “(2) *EFFECTIVE DATE.*—*Paragraph (1) shall*
23 *apply to services furnished during cost reporting peri-*
24 *ods which begin after the earlier of—*

1 “(A) *the date on which the Secretary estab-*
2 *lishes the payment methodology and the certifi-*
3 *cation criteria described in paragraph (1), or*

4 “(B) *July 1, 1996.*

5 “(g) *REPORT BY MEDICARE PAYMENT REVIEW COM-*
6 *MISSION.—During the first 3 years in which payments are*
7 *made under this section, the Medicare Payment Review*
8 *Commission shall annually submit a report to Congress on*
9 *the effectiveness of the payment methodology established*
10 *under this section that shall include recommendations re-*
11 *garding the following:*

12 “(1) *Case-mix and volume increases.*

13 “(2) *Quality monitoring of home health agency*
14 *practices.*

15 “(3) *Whether a capitated payment for home care*
16 *patients receiving care during a continuous period ex-*
17 *ceeding 165 days is warranted.*

18 “(4) *Whether public providers of service are ade-*
19 *quately reimbursed.*

20 “(5) *On the adequacy of the exemptions and ex-*
21 *ceptions to the limits provided under subsection*
22 *(c)(1)(E).*

23 “(6) *The appropriateness of the methods pro-*
24 *vided under this section to adjust the per episode lim-*
25 *its and annual payment updates to reflect changes in*

1 *the mix of services, number of visits, and assignment*
2 *to case categories to reflect changing patterns of home*
3 *health care.*

4 *“(7) The geographic areas used to determine the*
5 *per episode limits.”.*

6 *(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS*
7 *UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is*
8 *amended—*

9 *(1) by inserting “and prosthetics and orthotics”*
10 *after “durable medical equipment”; and*

11 *(2) by inserting “and 1834(h), respectively” after*
12 *“1834(a)(1)”.*

13 *(c) CONFORMING AMENDMENTS.—*

14 *(1) PAYMENTS UNDER PART A.—Section 1814(b)*
15 *(42 U.S.C. 1395f(b)), as amended by section 8412(b),*
16 *is amended in the matter preceding paragraph (1) by*
17 *striking “1888 and 1888A” and inserting “1888,*
18 *1888A, and 1894”.*

19 *(2) TREATMENT OF ITEMS AND SERVICES PAID*
20 *UNDER PART B.—*

21 *(A) PAYMENTS UNDER PART B.—Section*
22 *1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—*

23 *(i) by amending subparagraph (A) to*
24 *read as follows:*

25 *“(A) with respect to home health services—*

1 “(i) that are a type of home health
2 service described in section 1894(a)(2), and
3 which are furnished to an individual who
4 (at the time the item or service is furnished)
5 is under a plan of care of a home health
6 agency, the amount determined under sec-
7 tion 1894;

8 “(ii) that are not described in clause
9 (i) (other than a covered osteoporosis drug)
10 (as defined in section 1861(kk)), the lesser
11 of—

12 “(I) the reasonable cost of such
13 services, as determined under section
14 1861(v), or

15 “(II) the customary charges with
16 respect to such services;”.

17 (ii) by striking “and” at the end of
18 subparagraph (E);

19 (iii) by adding “and” at the end of
20 subparagraph (F); and

21 (iv) by adding at the end the following
22 new subparagraph:

23 “(G) with respect to items and services de-
24 scribed in section 1861(s)(10)(A), the lesser of—

1 “(i) the reasonable cost of such services,
2 as determined under section 1861(v), or
3 “(ii) the customary charges with re-
4 spect to such services,
5 or, if such services are furnished by a public pro-
6 vider of services, or by another provider which
7 demonstrates to the satisfaction of the Secretary
8 that a significant portion of its patients are low-
9 income (and requests that payment be made
10 under this provision), free of charge or at nomi-
11 nal charges to the public, the amount determined
12 in accordance with section 1814(b)(2);”.

13 (B) *REQUIRING PAYMENT FOR ALL ITEMS*
14 *AND SERVICES TO BE MADE TO AGENCY.—*

15 (i) *IN GENERAL.—*The first sentence of
16 section 1842(b)(6) (42 U.S.C. 1395u(b)(6)),
17 as amended by section 8415(a)(1), is
18 amended—

19 (I) by striking “and (E)” and in-
20 serting “(E)”; and

21 (II) by striking the period at the
22 end and inserting the following: “, and
23 (F) in the case of types of home health
24 services described in section 1894(a)(2)
25 furnished to an individual who (at the

1 *time the item or service is furnished) is*
2 *under a plan of care of a home health*
3 *agency, payment shall be made to the*
4 *agency (without regard to whether or*
5 *not the item or service was furnished*
6 *by the agency, by others under ar-*
7 *rangements with them made by the*
8 *agency, or when any other contracting*
9 *or consulting arrangement, or other-*
10 *wise).”.*

11 *(ii) CONFORMING AMENDMENT.—Section*
12 *1832(a)(1) (42 U.S.C. 1395k(a)(1)) is*
13 *amended by striking “(2);” and inserting*
14 *“(2) and section 1842(b)(6)(F);”.*

15 *(C) EXCLUSIONS FROM COVERAGE.—Section*
16 *1862(a) (42 U.S.C. 1395y(a)), as amended by*
17 *section 8415(a)(2), is amended—*

18 *(i) by striking “or” at the end of para-*
19 *graph (15);*

20 *(ii) by striking the period at the end of*
21 *paragraph (16) and inserting “or”; and*

22 *(iii) by adding at the end the following*
23 *new paragraph:*

24 *“(17) where such expenses are for home health*
25 *services furnished to an individual who is under a*

1 (b) *NO EXCEPTIONS PERMITTED BASED ON AMEND-*
2 *MENT.—The Secretary of Health and Human Services shall*
3 *not consider the amendment made by subsection (a) in mak-*
4 *ing any exemptions and exceptions pursuant to section*
5 *1861(v)(1)(L)(ii) of the Social Security Act.*

6 **SEC. 8603. EXTENSION OF WAIVER OF PRESUMPTION OF**
7 **LACK OF KNOWLEDGE OF EXCLUSION FROM**
8 **COVERAGE FOR HOME HEALTH AGENCIES.**

9 Section 9305(g)(3) of OBRA–1986, as amended by sec-
10 *tion 426(d) of the Medicare Catastrophic Coverage Act of*
11 *1988 and section 4207(b)(3) of the OBRA–1990 (as renum-*
12 *bered by section 160(d)(4) of the Social Security Act*
13 *Amendments of 1994), is amended by striking “December*
14 *31, 1995” and inserting “September 30, 1996.”*

15 **SEC. 8604. EXTENSION OF PERIOD OF HOME HEALTH AGEN-**
16 **CY CERTIFICATION.**

17 Section 1891(c)(2)(A) (42 U.S.C. 1395bbb(c)(2)(A)) is
18 *amended—*

19 (1) *by striking “15 months” and inserting “36*
20 *months”; and*

21 (2) *by striking the second sentence and inserting*
22 *the following: “The Secretary shall establish a fre-*
23 *quency for surveys of home health agencies within this*
24 *36-month interval commensurate with the need to as-*
25 *sure the delivery of quality home health services.”*

1 **PART 2—MEDICARE SECONDARY PAYER**

2 **IMPROVEMENTS**

3 **SEC. 8611. EXTENSION AND EXPANSION OF EXISTING RE-**
4 **QUIREMENTS.**

5 (a) *DATA MATCH.*—

6 (1) Section 1862(b)(5)(C) (42 U.S.C.
7 1395y(b)(5)(C)) is amended by striking clause (iii).

8 (2) Section 6103(l)(12) of the Internal Revenue
9 Code of 1986 is amended by striking subparagraph
10 (F).

11 (b) *APPLICATION TO DISABLED INDIVIDUALS IN*
12 *LARGE GROUP HEALTH PLANS.*—

13 (1) *IN GENERAL.*—Section 1862(b)(1)(B) (42
14 U.S.C. 1395y(b)(1)(B)) is amended—

15 (A) in clause (i), by striking “clause (iv)”
16 and inserting “clause (iii)”,

17 (B) by striking clause (iii), and

18 (C) by redesignating clause (iv) as clause
19 (iii).

20 (2) *CONFORMING AMENDMENTS.*—Paragraphs
21 (1) through (3) of section 1837(i) (42 U.S.C.
22 1395p(i)) and the second sentence of section 1839(b)
23 (42 U.S.C. 1395r(b)) are each amended by striking
24 “1862(b)(1)(B)(iv)” each place it appears and insert-
25 ing “1862(b)(1)(B)(iii)”.

1 (c) *INDIVIDUALS WITH END STAGE RENAL DIS-*
2 *EASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C))*
3 *is amended—*

4 (1) *in the last sentence by striking “October 1,*
5 *1998” and inserting “the date of the enactment of the*
6 *Medicare Preservation Act of 1995”; and*

7 (2) *by adding at the end the following new sen-*
8 *tence: “Effective for items and services furnished on*
9 *or after the date of the enactment of the Medicare*
10 *Preservation Act of 1995, (with respect to periods be-*
11 *ginning on or after the date that is 18 months prior*
12 *to such date), clauses (i) and (ii) shall be applied by*
13 *substituting ‘30-month’ for ‘12-month’ each place it*
14 *appears.”.*

15 **SEC. 8612. IMPROVEMENTS IN RECOVERY OF PAYMENTS.**

16 (a) *PERMITTING RECOVERY AGAINST THIRD PARTY*
17 *ADMINISTRATORS OF PRIMARY PLANS.—Section*
18 *1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amend-*
19 *ed—*

20 (1) *by striking “under this subsection to pay”*
21 *and inserting “(directly, as a third-party adminis-*
22 *trator, or otherwise) to make payment”, and*

23 (2) *by adding at the end the following: “The*
24 *United States may not recover from a third-party ad-*
25 *ministrator under this clause in cases where the*

1 *third-party administrator would not be able to re-*
2 *cover the amount at issue from the employer or group*
3 *health plan for whom it provides administrative serv-*
4 *ices due to the insolvency or bankruptcy of the em-*
5 *ployer or plan.”.*

6 *(b) EXTENSION OF CLAIMS FILING PERIOD.—Section*
7 *1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by*
8 *adding at the end the following new clause:*

9 *“(v) CLAIMS-FILING PERIOD.—Not-*
10 *withstanding any other time limits that*
11 *may exist for filing a claim under an em-*
12 *ployer group health plan, the United States*
13 *may seek to recover conditional payments*
14 *in accordance with this subparagraph where*
15 *the request for payment is submitted to the*
16 *entity required or responsible under this*
17 *subsection to pay with respect to the item or*
18 *service (or any portion thereof) under a pri-*
19 *mary plan within the 3-year period begin-*
20 *ning on the date on which the item or serv-*
21 *ice was furnished.”.*

22 *(c) EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply to items and services furnished on or*
24 *after the date of the enactment of this Act.*

1 **CHAPTER 3—OTHER ITEMS AND SERVICES**
2 **UNDER PARTS A AND B**

3 **SEC. 8621. MEDICARE COVERAGE OF CERTAIN ANTI-CANCER**
4 **DRUG TREATMENTS.**

5 (a) *COVERAGE OF CERTAIN SELF-ADMINISTERED*
6 *ANTICANCER DRUGS.*—Section 1861(s)(2)(Q) (42 U.S.C.
7 1395x(s)(2)(Q)) is amended—

8 (1) by striking “(Q)” and inserting “(Q)(i)”;
9 and

10 (2) by striking the semicolon at the end and in-
11 serting “, and”; and

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

13 “(ii) an oral drug (which is approved by the Federal
14 Food and Drug Administration) prescribed for use as an
15 anticancer nonsteroidal antiestrogen for the treatment of
16 breast cancer, but only if the manufacturer of such drug
17 has in effect a rebate agreement with the Secretary with
18 respect to such drug which has substantially similar terms
19 and conditions to the terms and conditions for such agree-
20 ments under section 1927 (as such section is in effect on
21 the date of the enactment of this clause);”.

22 (b) *UNIFORM COVERAGE OF ANTICANCER DRUGS IN*
23 *ALL SETTINGS.*—Section 1861(t)(2)(A) (42 U.S.C.
24 1395x(t)(2)(A)) is amended by inserting “(including a
25 nonsteroidal antiestrogen regimen)” after “regimen”.

1 (c) *CONFORMING AMENDMENT.*—Section
 2 1834(j)(5)(F)(iv) (42 U.S.C. 1395m(j)(5)(F)(iv)) is amend-
 3 ed by striking “prescribed for use” and all that follows
 4 through “1861(s)(2)(Q)” and inserting “described in sec-
 5 tion 1861(s)(2)(Q)”.

6 (d) *EFFECTIVE DATE.*—The amendments made by this
 7 section shall apply to drugs furnished on or after January
 8 1, 1996.

9 **SEC. 8622. ADMINISTRATIVE PROVISIONS.**

10 (a) *INDIAN HEALTH SERVICE FACILITIES.*—Nothing
 11 in this Act shall be construed to change the status under
 12 title XVIII of the Social Security Act (42 U.S.C. 1395 et
 13 seq.) of—

14 (1) a Federally qualified health center (as de-
 15 fined in section 1861(aa)(4) of such Act) which is an
 16 outpatient health program or facility operated by a
 17 tribe or tribal organization under the Indian Self-De-
 18 termination Act or by an urban Indian organization
 19 receiving funds under title V of the Indian Health
 20 Care Improvement Act; or

21 (2) hospitals or skilled nursing facilities of the
 22 Indian Health Service, whether operated by such
 23 Service or by an Indian tribe or tribal organization
 24 (as those terms are defined in section 4 of the Indian
 25 Health Care Improvement Act), that are eligible for

1 *payments under title XVIII of the Social Security*
2 *Act, in accordance with section 1880 of such Act (42*
3 *U.S.C. 1395qq).*

4 *(b) CONFORMING AMENDMENT TO CERTIFICATION OF*
5 *CHRISTIAN SCIENCE PROVIDERS.—*

6 *(1) HOSPITALS.—Section 1861(e) (42 U.S.C.*
7 *1395x(e)) is amended in the sixth sentence by striking*
8 *“the First Church of Christ, Scientist, Boston, Massa-*
9 *chusetts,” and inserting “the Commission for Accredi-*
10 *tation of Christian Science Nursing Organizations/*
11 *Facilities, Inc.,”.*

12 *(2) SKILLED NURSING FACILITIES.—Section*
13 *1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by*
14 *striking “the First Church of Christ, Scientist, Bos-*
15 *ton, Massachusetts,” and inserting “the Commission*
16 *for Accreditation of Christian Science Nursing Orga-*
17 *nizations/Facilities, Inc.,”.*

18 *(3) GENERAL PROVISIONS.—*

19 *(A) UNIFORM REPORTING SYSTEMS.—Sec-*
20 *tion 1122(h) (42 U.S.C. 1320a–1(h)) is amended*
21 *by striking “the First Church of Christ, Sci-*
22 *entist, Boston, Massachusetts” and inserting “the*
23 *Commission for Accreditation of Christian*
24 *Science Nursing Organizations/Facilities, Inc.”.*

1 (B) *PEER REVIEW*.—Section 1162 (42
 2 U.S.C. 1320c–11) is amended by striking “the
 3 First Church of Christ, Scientist, Boston, Massa-
 4 chusetts” and inserting “the Commission for Ac-
 5 creditation of Christian Science Nursing Organi-
 6 zations/Facilities, Inc.”.

7 (4) *EFFECTIVE DATE*.—The amendments made
 8 by this subsection shall take effect on January 1,
 9 1997.

10 **CHAPTER 4—FAILSAFE**

11 **SEC. 8631. FAILSAFE BUDGET MECHANISM.**

12 (a) *IN GENERAL*.—Title XVIII, as amended by sec-
 13 tions 8102(a) and 8601(a), is amended by adding at the
 14 end the following new section:

15 “*FAILSAFE BUDGET MECHANISM*

16 “*SEC. 1895. (a) REQUIREMENT OF PAYMENT AD-*
 17 *JUSTMENTS TO ACHIEVE MEDICARE BUDGET TARGETS.*—

18 “(1) *IN GENERAL*.—If the Secretary determines
 19 under subsection (e)(3)(C) before a fiscal year (begin-
 20 ning with fiscal year 1998) that—

21 “(A) the fee-for-service expenditures (as de-
 22 fined in subsection (f) for all sectors of medicare
 23 services (as defined in subsection (b)) for the fis-
 24 cal year, will exceed

25 “(B) the sum of the allotments specified
 26 under subsection (c)(2) for such fiscal year (tak-

1 *ing into account any adjustment in the allot-*
2 *ment under subsection (g) for that fiscal year)*
3 *for all sectors,*

4 *then, notwithstanding any other provisions of this*
5 *title, there shall be an adjustment (consistent with*
6 *subsection (d)) in applicable payment rates or pay-*
7 *ments for items and services included in each excess*
8 *spending sector in the fiscal year. In this section, the*
9 *term ‘aggregate excess spending’ means, for a fiscal*
10 *year, the amount by which the amount described in*
11 *subparagraph (A) (for the fiscal year) exceeds the*
12 *amount described in subparagraph (B) for such year.*

13 *“(2) EXCESS SPENDING SECTOR.—In this sec-*
14 *tion, the term ‘excess spending sector’ means, for a*
15 *fiscal year, a sector of medicare services for which the*
16 *Secretary determines under subsection (e)(3)(C)—*

17 *“(A) the fee-for-service expenditures (as de-*
18 *finied in subsection (f)) for all the fiscal year,*
19 *will exceed*

20 *“(B) the allotment specified under sub-*
21 *section (c)(2) for such fiscal year (taking into ac-*
22 *count any adjustment in the allotment under*
23 *subsection (g) for that fiscal year).*

24 *In this section, the term ‘excess spending’ means, for*
25 *a fiscal year with respect to such a sector, the amount*

1 *by which the amount described in subparagraph (A)*
2 *(for the fiscal year and sector) exceeds the amount de-*
3 *scribed in subparagraph (B) for such year and sector.*

4 “(b) *SECTORS OF MEDICARE SERVICES DE-*
5 *SCRIBED.—*

6 “(1) *IN GENERAL.—For purposes of this section,*
7 *items and services included under each of the follow-*
8 *ing subparagraphs shall be considered to be a sepa-*
9 *rate ‘sector’ of medicare services:*

10 “(A) *Inpatient hospital services.*

11 “(B) *Home health services.*

12 “(C) *Extended care services (for inpatients*
13 *of skilled nursing facilities).*

14 “(D) *Hospice care.*

15 “(E) *Physicians’ services (including services*
16 *and supplies described in section 1861(s)(2)(A))*
17 *and services of other health care professionals*
18 *(including certified registered nurse anesthetists,*
19 *nurse practitioners, physician assistants, and*
20 *clinical psychologists) for which separate pay-*
21 *ment is made under this title.*

22 “(F) *Outpatient hospital services and am-*
23 *bulatory facility services.*

24 “(G) *Durable medical equipment and sup-*
25 *plies, including prosthetic devices and orthotics.*

1 “(H) *Diagnostic tests (including clinical*
2 *laboratory services and x-ray services).*”

3 “(I) *Other items and services.*”

4 “(2) *CLASSIFICATION OF ITEMS AND SERV-*
5 *ICES.—The Secretary shall classify each type of items*
6 *and services covered and paid for separately under*
7 *this title into one of the sectors specified in paragraph*
8 *(1). After publication of such classification under sub-*
9 *section (e)(1), the Secretary is not authorized to make*
10 *substantive changes in such classification.*”

11 “(c) *ALLOTMENT.—*”

12 “(1) *ALLOTMENTS FOR EACH SECTOR.—For pur-*
13 *poses of this section, subject to subsection (g)(1), the*
14 *allotment for a sector of medicare services for a fiscal*
15 *year is equal to the product of—*

16 “(A) *the total allotment for the fiscal year*
17 *established under paragraph (2), and*

18 “(B) *the allotment proportion (specified*
19 *under paragraph (3)) for the sector and fiscal*
20 *year involved.*”

21 “(2) *TOTAL ALLOTMENT.—*”

22 “(A) *IN GENERAL.—For purposes of this*
23 *section, the total allotment for a fiscal year is*
24 *equal to—*

1 “(i) the medicare benefit budget for the
2 fiscal year (as specified under subparagraph
3 (B)), reduced by

4 “(ii) the amount of payments the Sec-
5 retary estimates will be made in the fiscal
6 year under the MedicarePlus program
7 under part C.

8 *In making the estimate under clause (ii), the*
9 *Secretary shall take into account estimated en-*
10 *rollment and demographic profile of individuals*
11 *electing MedicarePlus products.*

12 “(B) *MEDICARE BENEFIT BUDGET.*—*For*
13 *purposes of this subsection, subject to subpara-*
14 *graph (C), the ‘medicare benefit budget’—*

15 “(i) *for fiscal year 1996 is \$194.2 bil-*
16 *lion;*

17 “(i) *for fiscal year 1997 is \$206.3 bil-*
18 *lion;*

19 “(ii) *for fiscal year 1998 is \$217.8 bil-*
20 *lion;*

21 “(iii) *for fiscal year 1999 is \$229.2 bil-*
22 *lion;*

23 “(iv) *for fiscal year 2000 is \$247.2 bil-*
24 *lion;*

1 “(v) for fiscal year 2001 is \$266.4 bil-
2 lion;

3 “(vi) for fiscal year 2002 is \$289.0 bil-
4 lion; and

5 “(vii) for a subsequent fiscal year is
6 equal to the medicare benefit budget under
7 this subparagraph for the preceding fiscal
8 year multiplied by the product of (I) 1.05,
9 and (II) 1 plus the annual percentage in-
10 crease in the average number of medicare
11 beneficiaries from the previous fiscal year to
12 the fiscal year involved.

13 “(3) *MEDICARE ALLOTMENT PROPORTIONS DE-*
14 *FINED.—*

15 “(A) *IN GENERAL.—*For purposes of this
16 section and with respect to a sector of medicare
17 services for a fiscal year, the term ‘medicare al-
18 lotment proportion’ means the ratio of—

19 “(i) the baseline-projected medicare ex-
20 penditures (as determined under subpara-
21 graph (B)) for the sector for the fiscal year,
22 to

23 “(ii) the sum of such baseline expendi-
24 tures for all such sectors for the fiscal year.

1 “(B) *BASELINE-PROJECTED MEDICARE EXPENDITURES.*—*In this paragraph, the ‘baseline, projected medicare expenditures’ for a sector of medicare services—*

5 “(i) *for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector of medicare services for fiscal year 1996 (as specified in table in subparagraph (C)); and*

11 “(ii) *for a subsequent fiscal year is equal to the baseline-projected medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in such table).*

18 “(C) *BASELINE ANNUAL GROWTH RATES.*—*The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:*

[In percent]

“For the following sector—	Baseline annual growth rates for fiscal year—						
	1996	1997	1998	1999	2000	2001	2002 and thereafter
(A) <i>Inpatient hospital services</i>	5.7	5.6	6.0	6.1	5.7	5.5	5.2
(B) <i>Home health services</i>	17.2	15.1	11.7	9.1	8.4	8.1	7.9
(C) <i>Extended care services</i>	19.7	12.3	9.3	8.7	8.6	8.4	8.0
(D) <i>Hospice care</i>	32.0	24.0	18.0	15.0	12.0	10.0	9.0
(E) <i>Physicians’ services</i>	12.4	9.7	8.7	9.0	9.3	9.6	10.1
(F) <i>Outpatient hospital services</i>	14.7	13.9	14.5	15.0	14.1	13.9	14.0
(G) <i>Durable medical equipment and supplies</i>	16.1	15.5	13.7	12.4	13.2	13.9	14.5

[In percent]

For the following sector—	Baseline annual growth rates for fiscal year—						
	1996	1997	1998	1999	2000	2001	2002 and thereafter
(H) Diagnostic tests	13.1	11.3	11.0	11.4	11.4	11.5	11.9
(I) Other items and services	11.2	10.2	10.9	12.0	11.6	11.6	11.8

1 “(d) *MANNER OF PAYMENT ADJUSTMENT.*—

2 “(1) *PAYMENT REDUCTIONS.*—

3 “(A) *IN GENERAL.*—Subject to the succeed-
4 ing provisions of this subsection, the Secretary
5 shall apply a payment reduction for each excess
6 spending sector for a fiscal year in such a man-
7 ner as to—

8 “(i) make a change in payment rates
9 (to the maximum extent practicable) at the
10 time payment rates are otherwise changed
11 or subject to change for that fiscal year; and

12 “(ii) provide for the full appropriate
13 adjustment so that the fee-for-service ex-
14 penditures for the sector for the fiscal year
15 will be reduced by $133\frac{1}{3}$ percent of the
16 amount of the sector reduction target for
17 that sector.

18 “(B) *SECTOR REDUCTION TARGET.*—In
19 paragraph (1), the ‘sector reduction target’ for
20 an excess spending sector for a fiscal year is
21 equal to the product of—

1 “(i) the amount of the excess spending
2 for such sector and year (as defined in sub-
3 section (a)(2)); and

4 “(ii) the ratio of—

5 “(I) the aggregate excess spending
6 for the year (as defined in subsection
7 (a)(1)), to

8 “(II) the sum of the amounts of
9 the excess spending for all excess spend-
10 ing sectors.

11 “(2) *TAKING INTO ACCOUNT VOLUME AND CASH*
12 *FLOW.—In providing for an adjustment in payments*
13 *under this subsection for a sector for a fiscal year, the*
14 *Secretary shall take into account (in a manner con-*
15 *sistent with actuarial projections)—*

16 “(A) the impact of such an adjustment on
17 the volume or type of services provided in such
18 sector (and other sectors), and

19 “(B) the fact that an adjustment may apply
20 to items and services furnished in a fiscal year
21 (payment for which may occur in a subsequent
22 fiscal year),

23 in a manner that is consistent with assuring that
24 total fee-for-services expenditures for each sector for

1 *the fiscal year will not exceed the allotment under*
2 *subsection (c)(1) for such sector for such year.*

3 “(3) *PROPORTIONALITY OF REDUCTIONS WITHIN*
4 *A SECTOR.—In making adjustments under this sub-*
5 *section in payment for items and services included*
6 *within a sector of medicare services for a fiscal year,*
7 *the Secretary shall provide for such an adjustment*
8 *that results (to the maximum extent feasible) in the*
9 *same percentage reductions in aggregate Federal pay-*
10 *ments under parts A and B for the different classes*
11 *of items and services included within the sector for*
12 *the fiscal year.*

13 “(4) *APPLICATION TO PAYMENTS MADE BASED*
14 *ON PROSPECTIVE PAYMENT RATES DETERMINED ON A*
15 *FISCAL YEAR BASIS.—*

16 “(A) *IN GENERAL.—In applying subsection*
17 *(a) with respect to items and services for which*
18 *payment is made under part A or B on the basis*
19 *of rates that are established on a prospective*
20 *basis for (and in advance of) a fiscal year, the*
21 *Secretary shall provide for the payment adjust-*
22 *ment under such subsection through an appro-*
23 *priate reduction in such rates established for*
24 *items and services furnished (or, in the case of*
25 *payment for operating costs of inpatient hospital*

1 *services of subsection (d) hospitals and subsection*
2 *(d) Puerto Rico hospitals (as defined in para-*
3 *graphs (1)(B) and (9)(A) of section 1886(d),*
4 *discharges occurring) during such year.*

5 “(B) *DESCRIPTION OF APPLICATION TO*
6 *SPECIFIC SERVICES.—The payment adjustment*
7 *described in subparagraph (A) applies for a fis-*
8 *cal year to at least the following:*

9 “(i) *UPDATE FACTOR FOR PAYMENT*
10 *FOR OPERATING COSTS OF INPATIENT HOS-*
11 *PITAL SERVICES OF PPS HOSPITALS.—To*
12 *the computation of the applicable percent-*
13 *age increase specified in section*
14 *1886(d)(3)(B)(i) for discharges occurring in*
15 *the fiscal year.*

16 “(ii) *HOME HEALTH SERVICES.—To*
17 *the extent payment amounts for home health*
18 *services are based on per visit payment*
19 *rates under section 1894, to the computa-*
20 *tion of the increase in the national per visit*
21 *payment rates established for the year*
22 *under section 1894(b)(2)(B).*

23 “(iii) *HOSPICE CARE.—To the update*
24 *of payment rates for hospice care under sec-*

1 *tion 1814(i) for services furnished during*
2 *the fiscal year.*

3 *“(iv) UPDATE FACTOR FOR PAYMENT*
4 *OF OPERATING COSTS OF INPATIENT HOS-*
5 *PITAL SERVICES OF PPS-EXEMPT HOS-*
6 *PITALS.—To the computation of the target*
7 *amount under section 1886(b)(3) for dis-*
8 *charges occurring during the fiscal year.*

9 *“(v) COVERED NON-ROUTINE SERVICES*
10 *OF SKILLED NURSING FACILITIES.—To the*
11 *computation of the facility per stay limits*
12 *for the year under section 1888A(d) for cov-*
13 *ered non-routine services of a skilled nurs-*
14 *ing facility (as described in such section).*

15 *“(5) APPLICATION TO PAYMENTS MADE BASED*
16 *ON PROSPECTIVE PAYMENT RATES DETERMINED ON A*
17 *CALENDAR YEAR BASIS.—*

18 *“(A) IN GENERAL.—In applying subsection*
19 *(a) for a fiscal year with respect to items and*
20 *services for which payment is made under part*
21 *A or B on the basis of rates that are established*
22 *on a prospective basis for (and in advance of) a*
23 *calendar year, the Secretary shall provide for the*
24 *payment adjustment under such subsection*
25 *through an appropriate reduction in such rates*

1 *established for items and services furnished at*
2 *any time during such calendar year as follows:*

3 “(i) *For fiscal year 1997, the reduction*
4 *shall be made for payment rates during cal-*
5 *endar year 1997 in a manner so as to*
6 *achieve the necessary payment reductions*
7 *for such fiscal year for items and services*
8 *furnished during the first 3 quarters of cal-*
9 *endar year 1997.*

10 “(ii) *For a subsequent fiscal year, the*
11 *reduction shall be made for payment rates*
12 *during the calendar year in which the fiscal*
13 *year ends in a manner so as to achieve the*
14 *necessary payment reductions for such fiscal*
15 *year for items and services furnished during*
16 *the first 3 quarters of the calendar year, but*
17 *also taking into account the payment reduc-*
18 *tions made in the first quarter of the fiscal*
19 *year resulting from payment reductions*
20 *made under this paragraph for the previous*
21 *calendar year.*

22 “(iii) *Payment rate reductions effected*
23 *under this subparagraph for a calendar*
24 *year and applicable to the last 3 quarters of*
25 *the fiscal year in which the calendar year*

1 *ends shall continue to apply during the first*
2 *quarter of the succeeding fiscal year.*

3 “(B) *APPLICATION IN SPECIFIC CASES.—*
4 *The payment adjustment described in subpara-*
5 *graph (A) applies for a fiscal year to at least the*
6 *following:*

7 “(i) *UPDATE IN CONVERSION FACTOR*
8 *FOR PHYSICIANS’ SERVICES.—To the com-*
9 *putation of the conversion factor under sub-*
10 *section (d) of section 1848 used in the fee*
11 *schedule established under subsection (b) of*
12 *such section for items and services furnished*
13 *during the calendar year in which the fiscal*
14 *year ends.*

15 “(ii) *PAYMENT RATES FOR OTHER*
16 *HEALTH CARE PROFESSIONALS.—To the*
17 *computation of payments for professional*
18 *services, furnished during the calendar year*
19 *in which the fiscal year ends, of certified*
20 *registered nurse anesthetists under section*
21 *1833(l), nurse midwives, physician assist-*
22 *ants, nurse practitioners and clinical nurse*
23 *specialists under section 1833(r), clinical*
24 *psychologists, clinical social workers, phys-*
25 *ical or occupational therapists, and any*

1 *other health professionals for which pay-*
2 *ment rates are based (in whole or in part)*
3 *on payments for physicians' services.*

4 *“(iii) UPDATE IN LAB FEE SCHED-*
5 *ULE.—To the computation of the fee sched-*
6 *ule amount under section 1833(h)(2) for*
7 *clinical diagnostic laboratory services fur-*
8 *nished during the calendar year in which*
9 *the fiscal year ends.*

10 *“(iv) UPDATE IN REASONABLE*
11 *CHARGES FOR VACCINES.—To the computa-*
12 *tion of the reasonable charge for vaccines*
13 *described in section 1861(s)(10) for vaccines*
14 *furnished during the calendar year in*
15 *which the fiscal year ends.*

16 *“(v) DURABLE MEDICAL EQUIPMENT-*
17 *RELATED ITEMS.—To the computation of*
18 *the payment basis under section*
19 *1834(a)(1)(B) for covered items described in*
20 *section 1834(a)(13), for services furnished*
21 *during the calendar year in which the fiscal*
22 *year ends.*

23 *“(vi) RADIOLOGIST SERVICES.—To the*
24 *computation of conversion factors for radi-*
25 *ologist services under section 1834(b), for*

1 *services furnished during the calendar year*
2 *in which the fiscal year ends.*

3 “(vii) *SCREENING MAMMOGRAPHY.*—*To*
4 *the computation of payment rates for*
5 *screening mammography under section*
6 *1834(c)(1)(C)(ii), for screening mammog-*
7 *raphy performed during the calendar year*
8 *in which the fiscal year ends.*

9 “(viii) *PROSTHETICS AND*
10 *ORTHOTICS.*—*To the computation of the*
11 *amount to be recognized under section*
12 *1834(h) for payment for prosthetic devices*
13 *and orthotics and prosthetics, for items fur-*
14 *nished during the calendar year in which*
15 *the fiscal year ends.*

16 “(ix) *SURGICAL DRESSINGS.*—*To the*
17 *computation of the payment amount re-*
18 *ferred to in section 1834(i)(1)(B) for sur-*
19 *gical dressings, for items furnished during*
20 *the calendar year in which the fiscal year*
21 *ends.*

22 “(x) *PARENTERAL AND ENTERAL NU-*
23 *TRITION.*—*To the computation of reasonable*
24 *charge screens for payment for parenteral*
25 *and enteral nutrition under section 1834(h),*

1 *for nutrients furnished during the calendar*
2 *year in which the fiscal year ends.*

3 “(xi) *AMBULANCE SERVICES.—To the*
4 *computation of limits on reasonable charges*
5 *for ambulance services, for services fur-*
6 *nished during the calendar year in which*
7 *the fiscal year ends.*

8 “(6) *APPLICATION TO PAYMENTS MADE BASED*
9 *ON COSTS DURING A COST REPORTING PERIOD.—*

10 “(A) *IN GENERAL.—In applying subsection*
11 *(a) for a fiscal year with respect to items and*
12 *services for which payment is made under part*
13 *A or B on the basis of costs incurred for items*
14 *and services in a cost reporting period, the Sec-*
15 *retary shall provide for the payment adjustment*
16 *under such subsection for a fiscal year through*
17 *an appropriate proportional reduction in the*
18 *payment for costs for such items and services in-*
19 *curring at any time during each cost reporting*
20 *period any part of which occurs during the fiscal*
21 *year involved, but only (for each such cost re-*
22 *porting period) in the same proportion as the*
23 *fraction of the cost reporting period that occurs*
24 *during the fiscal year involved.*

1 “(B) *APPLICATION IN SPECIFIC CASES.*—
2 *The payment adjustment described in subpara-*
3 *graph (A) applies for a fiscal year to at least the*
4 *following:*

5 “(i) *CAPITAL-RELATED COSTS OF HOS-*
6 *PITAL SERVICES.*—*To the computation of*
7 *payment amounts for inpatient and out-*
8 *patient hospital services under sections*
9 *1886(g) and 1861(v) for portions of cost re-*
10 *porting periods occurring during the fiscal*
11 *year.*

12 “(ii) *OPERATING COSTS FOR PPS-EX-*
13 *EMPT HOSPITALS.*—*To the computation of*
14 *payment amounts under section 1886(b) for*
15 *operating costs of inpatient hospital services*
16 *of PPS-exempt hospitals for portions of cost*
17 *reporting periods occurring during the fis-*
18 *cal year.*

19 “(iii) *DIRECT GRADUATE MEDICAL*
20 *EDUCATION.*—*To the computation of pay-*
21 *ment amounts under section 1886(h) for*
22 *reasonable costs of direct graduate medical*
23 *education costs for portions of cost reporting*
24 *periods occurring during the fiscal year.*

1 “(iv) *INPATIENT RURAL PRIMARY CARE*
2 *HOSPITAL SERVICES.—To the computation*
3 *of payment amounts under section 1814(j)*
4 *for inpatient rural primary care hospital*
5 *services for portions of cost reporting peri-*
6 *ods occurring during the fiscal year.*

7 “(v) *EXTENDED CARE SERVICES OF A*
8 *SKILLED NURSING FACILITY.—To the com-*
9 *putation of payment amounts under section*
10 *1861(v) for post-hospital extended care serv-*
11 *ices of a skilled nursing facility (other than*
12 *covered non-routine services subject to sec-*
13 *tion 1888A) for portions of cost reporting*
14 *periods occurring during the fiscal year.*

15 “(vi) *REASONABLE COST CON-*
16 *TRACTS.—To the computation of payment*
17 *amounts under section 1833(a)(1)(A) for or-*
18 *ganizations for portions of cost reporting*
19 *periods occurring during the fiscal year.*

20 “(vii) *HOME HEALTH SERVICES.—*
21 *Subject to paragraph (4)(B)(ii), for pay-*
22 *ment amounts for home health services, for*
23 *portions of cost reporting periods occurring*
24 *during such fiscal year.*

1 “(7) *OTHER.*—*In applying subsection (a) for a*
2 *fiscal year with respect to items and services for*
3 *which payment is made under part A or B on a basis*
4 *not described in a previous paragraph of this sub-*
5 *section, the Secretary shall provide for the payment*
6 *adjustment under such subsection through an appro-*
7 *priate proportional reduction in the payments (or*
8 *payment bases for items and services furnished) dur-*
9 *ing the fiscal year.*

10 “(8) *ADJUSTMENT OF PAYMENT LIMITS.*—*The*
11 *Secretary shall provide for such proportional adjust-*
12 *ment in any limits on payment established under*
13 *part A or B for items and services within a sector as*
14 *may be appropriate based on (and in order to prop-*
15 *erly carry out) the adjustment to the amount of pay-*
16 *ment under this subsection in the sector.*

17 “(9) *REFERENCES TO PAYMENT RATES.*—*Except*
18 *as the Secretary may provide, any reference in this*
19 *title (other than this section) to a payment rate is*
20 *deemed a reference to such a rate as adjusted under*
21 *this subsection.*

22 “(e) *PUBLICATION OF DETERMINATIONS; JUDICIAL*
23 *REVIEW.*—

24 “(1) *ONE-TIME PUBLICATION OF SECTORS AND*
25 *GENERAL PAYMENT ADJUSTMENT METHODOLOGY.*—

1 *Not later than October 1, 1996, the Secretary shall*
2 *publish in the Federal Register the classification of*
3 *medicare items and services into the sectors of medi-*
4 *care services under subsection (b) and the general*
5 *methodology to be used in applying payment adjust-*
6 *ments to the different classes of items and services*
7 *within the sectors.*

8 “(2) *INCLUSION OF INFORMATION IN PRESI-*
9 *DENT’S BUDGET.—*

10 “(A) *IN GENERAL.—With respect to fiscal*
11 *years beginning with fiscal year 1999, the Presi-*
12 *dent shall include in the budget submitted under*
13 *section 1105 of title 31, United States Code, in-*
14 *formation on—*

15 “(i) *the fee-for-service expenditures,*
16 *within each sector, for the second previous*
17 *fiscal year, and how such expenditures com-*
18 *pare to the adjusted sector allotment for*
19 *that sector for that fiscal year, and*

20 “(ii) *actual annual growth rates for*
21 *fee-for-service expenditures in the different*
22 *sectors in the second previous fiscal year.*

23 “(B) *RECOMMENDATION REGARDING*
24 *GROWTH FACTORS.—The President may include*
25 *in such budget for a fiscal year (beginning with*

1 *fiscal year 1998) recommendations regarding*
2 *percentages that should be applied (for one or*
3 *more fiscal years beginning with that fiscal*
4 *year) instead of the baseline annual growth rates*
5 *under subsection (c)(3)(C). Such recommenda-*
6 *tions shall take into account medically appro-*
7 *prate practice patterns.*

8 “(3) *DETERMINATIONS CONCERNING PAYMENT*
9 *ADJUSTMENTS.—*

10 “(A) *RECOMMENDATIONS OF COMMIS-*
11 *SION.—By not later than March 1 of each year*
12 *(beginning with 1997), the Medicare Payment*
13 *Review Commission shall submit to the Sec-*
14 *retary and the Congress a report that analyzes*
15 *the previous operation (if any) of this section*
16 *and that includes recommendations concerning*
17 *the manner in which this section should be ap-*
18 *plied for the following fiscal year:*

19 “(B) *PRELIMINARY NOTICE BY SEC-*
20 *RETARY.—Not later than May 15 preceding the*
21 *beginning of each fiscal year (beginning with fis-*
22 *cal year 1998), the Secretary shall publish in the*
23 *FEDERAL REGISTER a notice containing the Sec-*
24 *retary’s preliminary determination, for each sec-*

1 *tor of medicare services, concerning the follow-*
2 *ing:*

3 “(i) *the projected allotment under sub-*
4 *section (c) for such sector for the fiscal year.*

5 “(ii) *Whether there will be a payment*
6 *adjustment for items and services included*
7 *in such sector for the fiscal year under sub-*
8 *section (a).*

9 “(iii) *If there will be such an adjust-*
10 *ment, the size of such adjustment and the*
11 *methodology to be used in making such a*
12 *payment adjustment for classes of items and*
13 *services included in such sector.*

14 “(iv) *Beginning with fiscal year 1999,*
15 *the fee-for-service expenditures for such sec-*
16 *tor for the second preceding fiscal year.*

17 *Such notice shall include an explanation of the*
18 *basis for such determination. Determinations*
19 *under this subparagraph and subparagraph (C)*
20 *shall be based on the best data available at the*
21 *time of such determinations.*

22 “(C) *FINAL DETERMINATION.—Not later*
23 *than September 1 preceding the beginning of*
24 *each fiscal year (beginning with fiscal year*
25 *1998), the Secretary shall publish in the Federal*

1 *Register a final determination, for each, sector of*
2 *medicare services, concerning the matters de-*
3 *scribed in subparagraph (B) and an explanation*
4 *of the reasons for any differences between such*
5 *determination and the preliminary determina-*
6 *tion for such fiscal year published under sub-*
7 *paragraph (B).*

8 “(4) *LIMITATION ON ADMINISTRATIVE OR JUDI-*
9 *CIAL REVIEW.—There shall be no administrative or*
10 *judicial review under section 1878 or otherwise of—*

11 “(A) *the classification of items and services*
12 *among the sectors of medicare services under sub-*
13 *section (b),*

14 “(B) *the determination of the amounts of*
15 *allotments for the different sectors of medicare*
16 *services under subsection (c),*

17 “(C) *the determination of the amount (or*
18 *method of application) of any payment adjust-*
19 *ment under subsection (d), or*

20 “(D) *any adjustment in an allotment ef-*
21 *fectuated under subsection (g).*

22 “(f) *FEE-FOR-SERVICE EXPENDITURES DE-*
23 *FINED.—In this section, the term “fee-for-service expendi-*
24 *tures’, for items and services within a sector of medicare*
25 *services in a fiscal year, means amounts payable for such*

1 *items and services which are furnished during the fiscal*
 2 *year, and—*

3 “(1) *includes types of expenses otherwise reim-*
 4 *bursable under parts A and B (including administra-*
 5 *tive costs incurred by organizations described in sec-*
 6 *tions 1816 and 1842) with respect to such items and*
 7 *services, and*

8 “(2) *does not include amounts paid under part*
 9 *C.*

10 “(g) *LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO*
 11 *REFLECT ACTUAL EXPENDITURES.—*

12 “(1) *DETERMINATIONS.—*

13 “(A) *IN GENERAL.—If the Secretary esti-*
 14 *mates under subsection (e)(3)(B) with respect to*
 15 *a particular fiscal year (beginning with fiscal*
 16 *year 1998) that—*

17 “(i) *the fee-for-service expenditures for*
 18 *all sectors of medicare services for the sec-*
 19 *ond preceding fiscal year, exceeded*

20 “(ii) *the sum of the adjusted allotments*
 21 *for all sectors for such year (as defined in*
 22 *paragraph (2)),*

23 *then the allotment for each final excess*
 24 *spending sector (as defined in subparagraph*
 25 *(B)(i)) for the particular fiscal year shall be re-*

1 duced by the look-back sector reduction amount
2 determined under subparagraph (B)(ii) for such
3 sector and year.

4 “(B) FINAL EXCESS SPENDING SECTORS.—

5 “(i) IN GENERAL.—In this paragraph,
6 the term ‘final excess spending sector’ means,
7 for a fiscal year, a sector of medicare serv-
8 ices for which the Secretary determines
9 under subsection (e)(B) that—

10 “(I) the fee-for-service expendi-
11 tures (as defined in subsection (f) for
12 the fiscal year, exceeded

13 “(II) the adjusted allotment for
14 such fiscal year.

15 For purposes of clause (ii), the term ‘final
16 excess spending’ means, for a fiscal year
17 with respect to such a sector, the amount by
18 which the amount described in subclause (I)
19 (for the fiscal year and sector) exceeds the
20 amount described in subclause (II) for such
21 year and sector.

22 “(ii) LOOK BACK SECTOR REDUCTION
23 AMOUNT.—In subparagraph (A)(i), the ‘look
24 back sector reduction amount’ for a final

1 *excess spending sector for a fiscal year is*
2 *equal to the product of—*

3 “(I) *the amount of the final excess*
4 *spending for such sector and year (as*
5 *defined in clause (i)); and*

6 “(II) *the ratio of—*

7 “(a) *the aggregate final ex-*
8 *cess spending for the year (de-*
9 *scribed in subparagraph (A)(i)),*
10 *to*

11 “(b) *the sum of the amounts*
12 *of the final excess spending for all*
13 *final excess spending sectors.*

14 “(2) *ADJUSTED ALLOTMENT.—The adjusted al-*
15 *lotment under this paragraph for a sector for a fiscal*
16 *year is—*

17 “(A) *the amount that would be computed as*
18 *the allotment under subsection (c) for the sector*
19 *for the fiscal year if the actual amount of pay-*
20 *ments made in the fiscal year under the*
21 *MedicarePlus program under part C in the fiscal*
22 *year were substituted for the amount described*
23 *in subsection (c)(2)(A)(ii) for that fiscal year,*

24 “(B) *adjusted to take into account the*
25 *amount of any adjustment under paragraph (1)*

1 *for that fiscal year (based on expenditures in the*
 2 *second preceding fiscal year).”.*

3 **(b) REPORT OF TRUSTEES ON GROWTH RATE IN**
 4 **PART A EXPENDITURES.**—*Section 1817 (42 U.S.C. 1395i)*
 5 *is amended by adding at the end the following new sub-*
 6 *section:*

7 “(k) *Each annual report provided in subsection*
 8 *(b)(2) shall include information regarding the annual rate*
 9 *of growth in program expenditures that would be required*
 10 *to maintain the financial solvency of the Trust Fund and*
 11 *the extent to which the provisions of section 1895 restrain*
 12 *the rate of growth of expenditures under this part in order*
 13 *to achieve such solvency.”.*

14 ***Subtitle H—Rural Areas***

15 ***SEC. 8701. MEDICARE-DEPENDENT, SMALL, RURAL HOS-***
 16 ***PITAL PAYMENT EXTENSION.***

17 ***(a) SPECIAL TREATMENT EXTENDED.—***

18 ***(1) PAYMENT METHODOLOGY.***—*Section*
 19 *1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is*
 20 *amended—*

21 ***(A) in clause (i), by striking “October 1,***
 22 ***1994,” and inserting “October 1, 1994, or begin-***
 23 ***ning on or after September 1, 1995, and before***
 24 ***October 1, 2000,”; and***

1 (B) in clause (ii)(II), by striking “October
2 1, 1994,” and inserting “October 1, 1994, or be-
3 ginning on or after September 1, 1995, and be-
4 fore October 1, 2000.”.

5 (2) *EXTENSION OF TARGET AMOUNT.*—Section
6 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is
7 amended—

8 (A) in the matter preceding clause (i), by
9 striking “September 30, 1994,” and inserting
10 “September 30, 1994, and for cost reporting pe-
11 riods beginning on or after September 1, 1995,
12 and before October 1, 2000,”;

13 (B) in clause (ii), by striking “and” at the
14 end;

15 (C) in clause (iii), by striking the period at
16 the end and inserting “, and”; and

17 (D) by adding at the end the following new
18 clause:

19 “(iv) with respect to discharges occurring during
20 September 1995 through fiscal year 1999, the target
21 amount for the preceding year increased by the appli-
22 cable percentage increase under subparagraph
23 (B)(iv).”.

24 (3) *PERMITTING HOSPITALS TO DECLINE RE-*
25 *CLASSIFICATION.*—Section 13501(e)(2) of OBRA-93

1 “(i) provides for the creation of one or
2 more rural health networks (as defined in
3 subsection (d)) in the State,

4 “(ii) promotes regionalization of rural
5 health services in the State, and

6 “(iii) improves access to hospital and
7 other health services for rural residents of
8 the State;

9 “(B) has developed the rural health care
10 plan described in subparagraph (A) in consulta-
11 tion with the hospital association of the State,
12 rural hospitals located in the State, and the
13 State Office of Rural Health (or, in the case of
14 a State in the process of developing such plan,
15 that assures the Secretary that the State will
16 consult with its State hospital association, rural
17 hospitals located in the State, and the State Of-
18 fice of Rural Health in developing such plan);

19 “(2) assurances that the State has designated
20 (consistent with the rural health care plan described
21 in paragraph (1)(A)), or is in the process of so des-
22 ignating, rural nonprofit or public hospitals or facili-
23 ties located in the State as critical access hospitals;
24 and

1 “(3) such other information and assurances as
2 the Secretary may require.

3 “(c) *MEDICARE RURAL HOSPITAL FLEXIBILITY PRO-*
4 *GRAM DESCRIBED.*—

5 “(1) *IN GENERAL.*—A State that has submitted
6 an application in accordance with subsection (b),
7 may establish a medicare rural hospital flexibility
8 program that provides that—

9 “(A) the State shall develop at least one
10 rural health network (as defined in subsection
11 (d)) in the State; and

12 “(B) at least one facility in the State shall
13 be designated as a critical access hospital in ac-
14 cordance with paragraph (2).

15 “(2) *STATE DESIGNATION OF FACILITIES.*—

16 “(A) *IN GENERAL.*—A State may designate
17 one or more facilities as a critical access hospital
18 in accordance with subparagraph (B).

19 “(B) *CRITERIA FOR DESIGNATION AS CRITI-*
20 *CAL ACCESS HOSPITAL.*—A State may designate
21 a facility as a critical access hospital if the facil-
22 ity—

23 “(i) is located in a county (or equiva-
24 lent unit of local government) in a rural

1 *area (as defined in section 1886(d)(2)(D))*
2 *that—*

3 *“(I) is located more than a 35-*
4 *mile drive from a hospital, or another*
5 *facility described in this subsection, or*

6 *“(II) is certified by the State as*
7 *being a necessary provider of health*
8 *care services to residents in the area;*

9 *“(ii) makes available 24-hour emer-*
10 *gency care services that a State determines*
11 *are necessary for ensuring access to emer-*
12 *gency care services in each area served by*
13 *a critical access hospital;*

14 *“(iii) provides not more than 6 acute*
15 *care inpatient beds (meeting such standards*
16 *as the Secretary may establish) for provid-*
17 *ing inpatient care for a period not to exceed*
18 *72 hours (unless a longer period is required*
19 *because transfer to a hospital is precluded*
20 *because of inclement weather or other emer-*
21 *gency conditions), except that a peer review*
22 *organization or equivalent entity may, on*
23 *request, waive the 72-hour restriction on a*
24 *case-by-case basis;*

1 “(iv) meets such staffing requirements
2 as would apply under section 1861(e) to a
3 hospital located in a rural area, except
4 that—

5 “(I) the facility need not meet
6 hospital standards relating to the num-
7 ber of hours during a day, or days
8 during a week, in which the facility
9 must be open and fully staffed, except
10 insofar as the facility is required to
11 make available emergency care services
12 as determined under clause (ii) and
13 must have nursing services available
14 on a 24-hour basis, but need not other-
15 wise staff the facility except when an
16 inpatient is present,

17 “(II) the facility may provide any
18 services otherwise required to be pro-
19 vided by a full-time, on-site dietitian,
20 pharmacist, laboratory technician,
21 medical technologist, and radiological
22 technologist on a part-time, off-site
23 basis under arrangements as defined in
24 section 1861(w)(1), and

1 “(III) the inpatient care described
2 in clause (iii) may be provided by a
3 physician’s assistant, nurse practi-
4 tioner, or clinical nurse specialist sub-
5 ject to the oversight of a physician who
6 need not be present in the facility; and
7 “(v) meets the requirements of sub-
8 paragraph (I) of paragraph (2) of section
9 1861(aa).

10 “(d) *RURAL HEALTH NETWORK DEFINED.*—

11 “(1) *IN GENERAL.*—For purposes of this section,
12 the term ‘rural health network’ means, with respect to
13 a State, an organization consisting of—

14 “(A) at least 1 facility that the State has
15 designated or plans to designate as a critical ac-
16 cess hospital, and

17 “(B) at least 1 hospital that furnishes acute
18 care services.

19 “(2) *AGREEMENTS.*—

20 “(A) *IN GENERAL.*—Each critical access
21 hospital that is a member of a rural health net-
22 work shall have an agreement with respect to
23 each item described in subparagraph (B) with at
24 least 1 hospital that is a member of the network.

1 “(B) *ITEMS DESCRIBED.*—*The items de-*
2 *scribed in this subparagraph are the following:*

3 “(i) *Patient referral and transfer.*

4 “(ii) *The development and use of com-*
5 *munications systems including (where fea-*
6 *sible)—*

7 “(I) *telemetry systems, and*

8 “(II) *systems for electronic shar-*
9 *ing of patient data.*

10 “(iii) *The provision of emergency and*
11 *non-emergency transportation among the*
12 *facility and the hospital.*

13 “(C) *CREDENTIALING AND QUALITY ASSUR-*
14 *ANCE.*—*Each critical access hospital that is a*
15 *member of a rural health network shall have an*
16 *agreement with respect to credentialing and*
17 *quality assurance with at least 1—*

18 “(i) *hospital that is a member of the*
19 *network;*

20 “(ii) *peer review organization or*
21 *equivalent entity; or*

22 “(iii) *other appropriate and qualified*
23 *entity identified in the State rural health*
24 *care plan.*

1 “(e) *CERTIFICATION BY THE SECRETARY.*—*The Sec-*
2 *retary shall certify a facility as a critical access hospital*
3 *if the facility—*

4 “(1) *is located in a State that has established a*
5 *medicare rural hospital flexibility program in accord-*
6 *ance with subsection (c);*

7 “(2) *is designated as a critical access hospital by*
8 *the State in which it is located; and*

9 “(3) *meets such other criteria as the Secretary*
10 *may require.*

11 “(f) *PERMITTING MAINTENANCE OF SWING BEDS.*—
12 *Nothing in this section shall be construed to prohibit a State*
13 *from designating or the Secretary from certifying a facility*
14 *as a critical access hospital solely because, at the time the*
15 *facility applies to the State for designation as a critical*
16 *access hospital, there is in effect an agreement between the*
17 *facility and the Secretary under section 1883 under which*
18 *the facility’s inpatient hospital facilities are used for the*
19 *furnishing of extended care services, except that the number*
20 *of beds used for the furnishing of such services may not ex-*
21 *ceed 12 beds (minus the number of inpatient beds used for*
22 *providing inpatient care in the facility pursuant to sub-*
23 *section (c)(2)(B)(iii)). For purposes of the previous sen-*
24 *tence, the number of beds of the facility used for the furnish-*
25 *ing of extended care services shall not include any beds of*

1 *a unit of the facility that is licensed as a distinct-part*
 2 *skilled nursing facility at the time the facility applies to*
 3 *the State for designation as a critical access hospital.*

4 “(g) *WAIVER OF CONFLICTING PART A PROVISIONS.—*
 5 *The Secretary is authorized to waive such provisions of this*
 6 *part and part C as are necessary to conduct the program*
 7 *established under this section.”.*

8 (b) *PART A AMENDMENTS RELATING TO RURAL PRI-*
 9 *MARY CARE HOSPITALS AND CRITICAL ACCESS HOS-*
 10 *PITALS.—*

11 (1) *DEFINITIONS.—Section 1861(mm) (42*
 12 *U.S.C. 1395x(mm)) is amended to read as follows:*

13 “*CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL*
 14 *SERVICES*

15 “(mm)(1) *The term ‘critical access hospital’ means a*
 16 *facility certified by the Secretary as a critical access hos-*
 17 *pital under section 1820(e).*

18 “(2) *The term ‘inpatient critical access hospital serv-*
 19 *ices’ means items and services, furnished to an inpatient*
 20 *of a critical access hospital by such facility, that would be*
 21 *inpatient hospital services if furnished to an inpatient of*
 22 *a hospital by a hospital.”.*

23 (2) *COVERAGE AND PAYMENT.—(A) Section*
 24 *1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by*
 25 *striking “or inpatient rural primary care hospital*

1 *services” and inserting “or inpatient critical access*
2 *hospital services”.*

3 *(B) Sections 1813(a) and section 1813(b)(3)(A)*
4 *(42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amend-*
5 *ed by striking “inpatient rural primary care hospital*
6 *services” each place it appears, and inserting “inpa-*
7 *tient critical access hospital services”.*

8 *(C) Section 1813(b)(3)(B) (42 U.S.C.*
9 *1395e(b)(3)(B)) is amended by striking “inpatient*
10 *rural primary care hospital services” and inserting*
11 *“inpatient critical access hospital services”.*

12 *(D) Section 1814 (42 U.S.C. 1395f) is amend-*
13 *ed—*

14 *(i) in subsection (a)(8) by striking “rural*
15 *primary care hospital” each place it appears*
16 *and inserting “critical access hospital”; and*

17 *(ii) in subsection (b), by striking “other*
18 *than a rural primary care hospital providing*
19 *inpatient rural primary care hospital services,”*
20 *and inserting “other than a critical access hos-*
21 *pital providing inpatient critical access hospital*
22 *services,”; and*

23 *(iii) by amending subsection (l) to read as*
24 *follows:*

1 “(l) *PAYMENT FOR INPATIENT CRITICAL ACCESS HOS-*
2 *PITAL SERVICES.—The amount of payment under this part*
3 *for inpatient critical access hospital services is the reason-*
4 *able costs of the critical access hospital in providing such*
5 *services.*”.

6 (3) *TREATMENT OF CRITICAL ACCESS HOSPITALS*
7 *AS PROVIDERS OF SERVICES.—(A) Section 1861(u)*
8 *(42 U.S.C. 1395x(u)) is amended by striking “rural*
9 *primary care hospital” and inserting “critical access*
10 *hospital”.*

11 (B) *The first sentence of section 1864(a) (42*
12 *U.S.C. 1395aa(a)) is amended by striking “a rural*
13 *primary care hospital” and inserting “a critical ac-*
14 *cess hospital”.*

15 (4) *CONFORMING AMENDMENTS.—(A) Section*
16 *1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended*
17 *by striking “rural primary care hospital” each place*
18 *it appears and inserting “critical access hospital”.*

19 (B) *Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is*
20 *amended by striking “rural primary care hospital”*
21 *and inserting “critical access hospital”.*

22 (C) *Section 1134 (42 U.S.C. 1320b–4) is amend-*
23 *ed by striking “rural primary care hospitals” each*
24 *place it appears and inserting “critical access hos-*
25 *pitals”.*

1 (D) Section 1138(a)(1) (42 U.S.C. 1320b–
2 8(a)(1)) is amended—

3 (i) in the matter preceding subparagraph
4 (A), by striking “rural primary care hospital”
5 and inserting “critical access hospital”; and

6 (ii) in the matter preceding clause (i) of
7 subparagraph (A), by striking “rural primary
8 care hospital” and inserting “critical access hos-
9 pital”.

10 (E) Section 1816(c)(2)(C) (42 U.S.C.
11 1395h(c)(2)(C)) is amended by striking “rural pri-
12 mary care hospital” and inserting “critical access
13 hospital”.

14 (F) Section 1833 (42 U.S.C. 1395l) is amend-
15 ed—

16 (i) in subsection (h)(5)(A)(iii), by striking
17 “rural primary care hospital” and inserting
18 “critical access hospital”;

19 (ii) in subsection (i)(1)(A), by striking
20 “rural primary care hospital” and inserting
21 “critical access hospital”;

22 (iii) in subsection (i)(3)(A), by striking
23 “rural primary care hospital services” and in-
24 serting “critical access hospital services”;

1 (iv) in subsection (l)(5)(A), by striking
2 “rural primary care hospital” each place it ap-
3 pears and inserting “critical access hospital”;
4 and

5 (v) in subsection (l)(5)(B), by striking
6 “rural primary care hospital” each place it ap-
7 pears and inserting “critical access hospital”.

8 (G) Section 1835(c) (42 U.S.C. 1395n(c)) is
9 amended by striking “rural primary care hospital”
10 each place it appears and inserting “critical access
11 hospital”.

12 (H) Section 1842(b)(6)(A)(ii) (42 U.S.C.
13 1395u(b)(6)(A)(ii)) is amended by striking “rural
14 primary care hospital” and inserting “critical access
15 hospital”.

16 (I) Section 1861 (42 U.S.C. 1395x) is amend-
17 ed—

18 (i) in subsection (a)—

19 (I) in paragraph (1), by striking “in-
20 patient rural primary care hospital serv-
21 ices” and inserting “inpatient critical ac-
22 cess hospital services”; and

23 (II) in paragraph (2), by striking
24 “rural primary care hospital” and insert-
25 ing “critical access hospital”;

1 (ii) in the last sentence of subsection (e), by
2 striking “rural primary care hospital” and in-
3 serting “critical access hospital”;

4 (iii) in subsection (v)(1)(S)(ii)(III), by
5 striking “rural primary care hospital” and in-
6 serting “critical access hospital”;

7 (iv) in subsection (w)(1), by striking “rural
8 primary care hospital” and inserting “critical
9 access hospital”; and

10 (v) in subsection (w)(2), by striking “rural
11 primary care hospital” each place it appears
12 and inserting “critical access hospital”.

13 (J) Section 1862(a)(14) (42 U.S.C.
14 1395y(a)(14)) is amended by striking “rural primary
15 care hospital” each place it appears and inserting
16 “critical access hospital”.

17 (K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1))
18 is amended—

19 (i) in subparagraph (F)(ii), by striking
20 “rural primary care hospitals” and inserting
21 “critical access hospitals”;

22 (ii) in subparagraph (H), in the matter
23 preceding clause (i), by striking “rural primary
24 care hospitals” and “rural primary care hospital
25 services” and inserting “critical access hospitals”

1 and “critical access hospital services”, respec-
2 tively;

3 (iii) in subparagraph (I), in the matter
4 preceding clause (i), by striking “rural primary
5 care hospital” and inserting “critical access hos-
6 pital”; and

7 (iv) in subparagraph (N)—

8 (I) in the matter preceding clause (i),
9 by striking “rural primary care hospitals”
10 and inserting “critical access hospitals”,
11 and

12 (II) in clause (i), by striking “rural
13 primary care hospital” and inserting “crit-
14 ical access hospital”.

15 (L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3))
16 is amended—

17 (i) by striking “rural primary care hos-
18 pital” each place it appears in subparagraphs
19 (A) and (B) and inserting “critical access hos-
20 pital”; and

21 (ii) in subparagraph (C)(ii)(II), by striking
22 “rural primary care hospitals” each place it ap-
23 pears and inserting “critical access hospitals”.

1 (M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5))
2 is amended by striking “rural primary care hospital”
3 and inserting “critical access hospital”.

4 (c) PAYMENT CONTINUED TO DESIGNATED EACHs.—
5 Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is
6 amended—

7 (1) in clause (iii)(III), by inserting “as in effect
8 on September 30, 1995” before the period at the end;
9 and

10 (2) in clause (v)—

11 (A) by inserting “as in effect on September
12 30, 1995” after “1820 (i)(1)”; and

13 (B) by striking “1820(g)” and inserting
14 “1820(e)”.

15 (d) PART B AMENDMENTS RELATING TO CRITICAL AC-
16 CESS HOSPITALS.—

17 (1) COVERAGE.—(A) Section 1861(mm) (42
18 U.S.C. 1395x(mm)) as amended by subsection (d)(1),
19 is amended by adding at the end the following new
20 paragraph:

21 “(3) The term ‘outpatient critical access hospital serv-
22 ices’ means medical and other health services furnished by
23 a critical access hospital on an outpatient basis.”.

24 (B) Section 1832(a)(2)(H) (42 U.S.C.
25 1395k(a)(2)(H)) is amended by striking “rural pri-

1 *mary care hospital services” and inserting “critical*
2 *access hospital services”.*

3 (2) *PAYMENT.—(A) Section 1833(a) (42 U.S.C.*
4 *1395l(a)) is amended in paragraph (6), by striking*
5 *“outpatient rural primary care hospital services” and*
6 *inserting “outpatient critical access hospital services”.*

7 (B) *Section 1834(g) (42 U.S.C. 1395m(g)) is*
8 *amended to read as follows:*

9 *“(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS*
10 *HOSPITAL SERVICES.—The amount of payment under this*
11 *part for outpatient critical access hospital services is the*
12 *reasonable costs of the critical access hospital in providing*
13 *such services.”.*

14 (e) *EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to services furnished on or after October*
16 *1, 1995.*

17 **SEC. 8703. ESTABLISHMENT OF RURAL EMERGENCY ACCESS**
18 **CARE HOSPITALS.**

19 (a) *IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is*
20 *amended by adding at the end the following new subsection:*

21 *“Rural Emergency Access Care Hospital; Rural*
22 *Emergency Access Care Hospital Services*

23 *“(oo)(1) The term ‘rural emergency access care hos-*
24 *pital’ means, for a fiscal year, a facility with respect to*
25 *which the Secretary finds the following:*

1 “(A) *The facility is located in a rural area (as*
2 *defined in section 1886(d)(2)(D)).*

3 “(B) *The facility was a hospital under this title*
4 *at any time during the 5-year period that ends on the*
5 *date of the enactment of this subsection.*

6 “(C) *The facility is in danger of closing due to*
7 *low inpatient utilization rates and operating losses,*
8 *and the closure of the facility would limit the access*
9 *to emergency services of individuals residing in the*
10 *facility’s service area.*

11 “(D) *The facility has entered into (or plans to*
12 *enter into) an agreement with a hospital with a par-*
13 *ticipation agreement in effect under section 1866(a),*
14 *and under such agreement the hospital shall accept*
15 *patients transferred to the hospital from the facility*
16 *and receive data from and transmit data to the facil-*
17 *ity.*

18 “(E) *There is a practitioner who is qualified to*
19 *provide advanced cardiac life support services (as de-*
20 *termined by the State in which the facility is located)*
21 *on-site at the facility on a 24-hour basis.*

22 “(F) *A physician is available on-call to provide*
23 *emergency medical services on a 24-hour basis.*

1 “(G) *The facility meets such staffing require-*
2 *ments as would apply under section 1861(e) to a hos-*
3 *pital located in a rural area, except that—*

4 “(i) *the facility need not meet hospital*
5 *standards relating to the number of hours during*
6 *a day, or days during a week, in which the facil-*
7 *ity must be open, except insofar as the facility*
8 *is required to provide emergency care on a 24-*
9 *hour basis under subparagraphs (E) and (F);*
10 *and*

11 “(ii) *the facility may provide any services*
12 *otherwise required to be provided by a full-time,*
13 *on-site dietitian, pharmacist, laboratory techni-*
14 *cian, medical technologist, or radiological tech-*
15 *nologist on a part-time, off-site basis.*

16 “(H) *The facility meets the requirements appli-*
17 *cable to clinics and facilities under subparagraphs*
18 *(C) through (J) of paragraph (2) of section 1861(aa)*
19 *and of clauses (ii) and (iv) of the second sentence of*
20 *such paragraph (or, in the case of the requirements*
21 *of subparagraph (E), (F), or (J) of such paragraph,*
22 *would meet the requirements if any reference in such*
23 *subparagraph to a ‘nurse practitioner’ or to ‘nurse*
24 *practitioners’ were deemed to be a reference to a*
25 *‘nurse practitioner or nurse’ or to ‘nurse practitioners*

1 or nurses’); except that in determining whether a fa-
2 cility meets the requirements of this subparagraph,
3 subparagraphs (E) and (F) of that paragraph shall
4 be applied as if any reference to a ‘physician’ is a
5 reference to a physician as defined in section
6 1861(r)(1).

7 “(2) The term ‘rural emergency access care hospital
8 services’ means the following services provided by a rural
9 emergency access care hospital and furnished to an individ-
10 ual over a continuous period not to exceed 24 hours (except
11 that such services may be furnished over a longer period
12 in the case of an individual who is unable to leave the hos-
13 pital because of inclement weather):

14 “(A) An appropriate medical screening examina-
15 tion (as described in section 1867(a)).

16 “(B) Necessary stabilizing examination and
17 treatment services for an emergency medical condition
18 and labor (as described in section 1867(b)).”.

19 (b) *REQUIRING RURAL EMERGENCY ACCESS CARE*
20 *HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIRE-*
21 *MENTS.*—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is
22 amended by striking “1861(mm)(1))” and inserting
23 “1861(mm)(1)) and a rural emergency access care hospital
24 (as defined in section 1861(oo)(1))”.

25 (c) *COVERAGE AND PAYMENT FOR SERVICES.*—

1 (1) *COVERAGE.*—Section 1832(a)(2) (42 U.S.C.
2 1395k(a)(2)) is amended—

3 (A) by striking “and” at the end of sub-
4 paragraph (I);

5 (B) by striking the period at the end of sub-
6 paragraph (J) and inserting “; and”; and

7 (C) by adding at the end the following new
8 subparagraph:

9 “(K) rural emergency access care hospital
10 services (as defined in section 1861(oo)(2)).”.

11 (2) *PAYMENT BASED ON PAYMENT FOR OUT-
12 PATIENT CRITICAL ACCESS HOSPITAL SERVICES.*—

13 (A) *IN GENERAL.*—Section 1833(a)(6) (42
14 U.S.C. 1395l(a)(6)), as amended by section
15 8702(f)(2), is amended by striking “services,”
16 and inserting “services and rural emergency ac-
17 cess care hospital services,”.

18 (B) *PAYMENT METHODOLOGY DESCRIBED.*—
19 Section 1834(g) (42 U.S.C. 1395m(g)), as
20 amended by section 8702(f)(2)(B), is amended—

21 (i) in the heading, by striking “SERV-
22 ICES” and inserting “SERVICES AND RURAL
23 EMERGENCY ACCESS CARE HOSPITAL
24 SERVICES”; and

1 (ii) by adding at the end the following
2 new sentence: “The amount of payment for
3 rural emergency access care hospital serv-
4 ices provided during a year shall be deter-
5 mined using the applicable method provided
6 under this subsection for determining pay-
7 ment for outpatient rural primary care hos-
8 pital services during the year.”.

9 (d) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to fiscal years beginning on or after Oc-
11 tober 1, 1995.

12 **SEC. 8704. CLASSIFICATION OF RURAL REFERRAL CENTERS.**

13 (a) *PROHIBITING DENIAL OF REQUEST FOR RECLAS-*
14 *SIFICATION ON BASIS OF COMPARABILITY OF WAGES.*—

15 (1) *IN GENERAL.*—Section 1886(d)(10)(D) (42
16 U.S.C. 1395ww(d)(10)(D)) is amended—

17 (A) by redesignating clause (iii) as clause
18 (iv); and

19 (B) by inserting after clause (ii) the follow-
20 ing new clause:

21 “(iii) Under the guidelines published by the Secretary
22 under clause (i), in the case of a hospital which is classified
23 by the Secretary as a rural referral center under paragraph
24 (5)(C), the Board may not reject the application of the hos-
25 pital under this paragraph on the basis of any comparison

1 *between the average hourly wage of the hospital and the*
2 *average hourly wage of hospitals in the area in which it*
3 *is located.”.*

4 (2) *EFFECTIVE DATE.*—*Notwithstanding section*
5 *1886(d)(10)(C)(ii) of the Social Security Act, a hos-*
6 *pital may submit an application to the Medicare Ge-*
7 *ographic Classification Review Board during the 30-*
8 *day period beginning on the date of the enactment of*
9 *this Act requesting a change in its classification for*
10 *purposes of determining the area wage index applica-*
11 *ble to the hospital under section 1886(d)(3)(D) of such*
12 *Act for fiscal year 1997, if the hospital would be eligi-*
13 *ble for such a change in its classification under the*
14 *standards described in section 1886(d)(10)(D) (as*
15 *amended by paragraph (1)) but for its failure to meet*
16 *the deadline for applications under section*
17 *1886(d)(10)(C)(ii).*

18 (b) *CONTINUING TREATMENT OF PREVIOUSLY DES-*
19 *IGNATED CENTERS.*—*Any hospital classified as a rural re-*
20 *ferral center by the Secretary of Health and Human Serv-*
21 *ices under section 1886(d)(5)(C) of the Social Security Act*
22 *for fiscal year 1994 shall be classified as such a rural refer-*
23 *ral center for fiscal year 1996 and each subsequent fiscal*
24 *year.*

1 **SEC. 8705. FLOOR ON AREA WAGE INDEX.**

2 (a) *IN GENERAL.*—For purposes of section
3 1886(d)(3)(E) of the Social Security Act for discharges oc-
4 ccurring on or after October 1, 1995, the area wage index
5 applicable under such section to any hospital which is not
6 located in a rural area (as defined in section 1886(d)(2)(D)
7 of such Act) may not be less than the average of the area
8 wage indices applicable under such section to hospitals lo-
9 cated in rural areas in the State in which the hospital is
10 located.

11 (b) *IMPLEMENTATION.*—The Secretary of Health and
12 Human Services shall adjust the area wage indices referred
13 to in subsection (a) for hospitals not described in such sub-
14 section in a manner which assures that the aggregate pay-
15 ments made under section 1886(d) of the Social Security
16 Act in a fiscal year for the operating costs of inpatient hos-
17 pital services are not greater or less than those which would
18 have been made in the year if this section did not apply.

19 **SEC. 8706. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERV-**
20 **ICES FURNISHED IN SHORTAGE AREAS.**

21 (a) *INCREASE IN AMOUNT OF ADDITIONAL PAY-*
22 *MENT.*—Section 1833(m) (42 U.S.C. 1395l(m)) is amended
23 by striking “10 percent” and inserting “20 percent”.

24 (b) *RESTRICTION TO PRIMARY CARE SERVICES.*—Sec-
25 tion 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting

1 after “physicians’ services” the following: “consisting of pri-
2 mary care services (as defined in section 1842(i)(4))”.

3 (c) *EXTENSION OF PAYMENT FOR FORMER SHORTAGE*
4 *AREAS.*—

5 (1) *IN GENERAL.*—Section 1833(m) (42 U.S.C.
6 1395l(m)) is amended by striking “area,” and insert-
7 ing “area (or, in the case of an area for which the
8 designation as a health professional shortage area
9 under such section is withdrawn, in the case of physi-
10 cians’ services furnished to such an individual during
11 the 3-year period beginning on the effective date of the
12 withdrawal of such designation),”.

13 (2) *EFFECTIVE DATE.*—The amendment made by
14 paragraph (1) shall apply to physicians’ services fur-
15 nished in an area for which the designation as a
16 health professional shortage area under section
17 332(a)(1)(A) of the Public Health Service Act is with-
18 drawn on or after January 1, 1996.

19 (d) *REQUIRING CARRIERS TO REPORT ON SERVICES*
20 *PROVIDED.*—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is
21 amended—

22 (1) by striking “and” at the end of subpara-
23 graph (I); and

24 (2) by inserting after subparagraph (I) the fol-
25 lowing new subparagraph:

1 “(J) will provide information to the Secretary
 2 (on such periodic basis as the Secretary may require)
 3 on the types of providers to whom the carrier makes
 4 additional payments for certain physicians’ services
 5 pursuant to section 1833(m), together with a descrip-
 6 tion of the services furnished by such providers; and”.

7 (e) *EFFECTIVE DATE.*—The amendments made by sub-
 8 sections (a), (b), and (d) shall apply to physicians’ services
 9 furnished on or after October 1, 1995.

10 **SEC. 8707. PAYMENTS TO PHYSICIAN ASSISTANTS AND**
 11 **NURSE PRACTITIONERS FOR SERVICES FUR-**
 12 **NISHED IN OUTPATIENT OR HOME SETTINGS.**

13 (a) *COVERAGE IN OUTPATIENT OR HOME SETTINGS*
 14 *FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITION-*
 15 *ERS.*—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is
 16 amended—

17 (1) in clause (i)—

18 (A) by striking “or” at the end of subclause

19 (II); and

20 (B) by inserting “or (IV) in an outpatient

21 or home setting as defined by the Secretary” fol-

22 lowing “shortage area,”; and

23 (2) in clause (ii)—

24 (A) by striking “in a skilled” and inserting

25 “in (I) a skilled”; and

1 (B) by inserting “, or (II) in an outpatient
2 or home setting (as defined by the Secretary),”
3 after “(as defined in section 1919(a))”.

4 (b) *PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE*
5 *PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.*—

6 (1) *IN GENERAL.*—Section 1833(r)(1) (42 U.S.C.
7 1395l(r)(1)) is amended—

8 (A) by inserting “services described in sec-
9 tion 1861(s)(2)(K)(ii)(II) (relating to nurse
10 practitioner services furnished in outpatient or
11 home settings), and services described in section
12 1861(s)(2)(K)(i)(IV) (relating to physician as-
13 sistant services furnished in an outpatient or
14 home setting” after “rural area),”; and

15 (B) by striking “or clinical nurse special-
16 ist” and inserting “clinical nurse specialist, or
17 physician assistant”.

18 (2) *CONFORMING AMENDMENT.*—Section
19 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended
20 by striking “clauses (i), (ii), or (iv)” and inserting
21 “subclauses (I), (II), or (III) of clause (i), clause
22 (ii)(I), or clause (iv)”.

23 (c) *PAYMENT UNDER THE FEE SCHEDULE TO PHYSI-*
24 *CIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUT-*
25 *PATIENT OR HOME SETTINGS.*—

1 (1) *PHYSICIAN ASSISTANTS.*—Section
2 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by
3 adding at the end the following new subparagraph:

4 “(C) With respect to services described in clauses
5 (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating
6 to physician assistants and nurse practitioners furnishing
7 services in outpatient or home settings)—

8 “(i) payment under this part may only be made
9 on an assignment-related basis; and

10 “(ii) the amounts paid under this part shall be
11 equal to 80 percent of (I) the lesser of the actual
12 charge or 85 percent of the fee schedule amount pro-
13 vided under section 1848 for the same service pro-
14 vided by a physician who is not a specialist; or (II)
15 in the case of services as an assistant at surgery, the
16 lesser of the actual charge or 85 percent of the amount
17 that would otherwise be recognized if performed by a
18 physician who is serving as an assistant at surgery.”.

19 (2) *CONFORMING AMENDMENT.*—Section
20 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is
21 amended in the matter preceding clause (i) by strik-
22 ing “(i), (ii),” and inserting “subclauses (I), (II), or
23 (III) of clause (i), or subclause (I) of clause (ii)”.

24 (3) *TECHNICAL AMENDMENT.*—Section
25 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is

1 **TITLE IX—TRANSPORTATION**
2 **AND RELATED PROVISIONS**

3 **SEC. 9001. MINIMUM ALLOCATION FOR HIGHWAY PRO-**
4 **GRAMS.**

5 (a) *TECHNICAL CORRECTION.*—*With respect to fiscal*
6 *year 1996—*

7 (1) *the Secretary of Transportation shall deter-*
8 *mine, in accordance with the policies established by*
9 *the Intermodal Surface Transportation Efficiency Act*
10 *of 1991 (105 Stat. 1914)—*

11 (A) *which of the States will no longer re-*
12 *quire an apportionment under section 157(a)(4)*
13 *of title 23, United States Code; and*

14 (B) *which of the States will require de-*
15 *creased funding under such section 157(a)(4);*
16 *as a result of the termination of the Interstate con-*
17 *struction program; and*

18 (2) *as a result of the reduced number of States*
19 *that may require an apportionment under such sec-*
20 *tion 157(a)(4), and the decrease in the amount of*
21 *funds some States will require under such section*
22 *157(a)(4), the maximum amount available for appor-*
23 *tionment under such section 157(a)(4) shall be re-*
24 *duced from the amount apportioned under such sec-*
25 *tion 157(a)(4) for fiscal year 1995 by 60.4 percent.*

1 *plicable to persons subject to radiological emergency pre-*
2 *paredness regulations issued by the Director.*

3 **(b) REQUIREMENTS.**—*The assessment and collection of*
4 *fees by the Director under subsection (a) shall be fair and*
5 *equitable and shall reflect the full amount of costs to the*
6 *Agency of providing radiological emergency planning, pre-*
7 *paredness, response, and associated services. Such fees shall*
8 *be assessed by the Director in a manner that reflects the*
9 *use of resources of the Agency for classes of regulated persons*
10 *and the administrative costs of collecting such fees.*

11 **(c) AMOUNT OF FEES.**—*The aggregate amount of fees*
12 *assessed under subsection (a) in a fiscal year shall approxi-*
13 *mate, but not be less than, 100 percent of the amounts an-*
14 *ticipated by the Director to be obligated for the radiological*
15 *emergency preparedness program of the Agency for such fis-*
16 *cal year.*

17 **(d) DEPOSIT OF FEES IN TREASURY.**—*Fees received*
18 *pursuant to subsection (a) shall be deposited in the general*
19 *fund of the Treasury as offsetting receipts.*

20 **(e) EXPIRATION OF AUTHORITY.**—*The authority of the*
21 *Director to assess and collect fees under subsection (a) shall*
22 *expire on September 30, 2002.*

1 **TITLE X—VETERANS AND**
 2 **RELATED PROVISIONS**

3 **SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This title may be cited as the*
 5 *“Veterans Reconciliation Act of 1995”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this title is as follows:*

Sec. 10001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 10011. Authority to require that certain veterans make copayments in ex-
change for receiving health-care benefits.

Sec. 10012. Medical care cost recovery authority.

Sec. 10013. Income verification authority.

Sec. 10014. Limitation on pension for certain recipients of medicaid-covered
nursing home care.

Sec. 10015. Home loan fees.

Sec. 10016. Procedures applicable to liquidation sales on defaulted home loans
guaranteed by the Department of Veterans Affairs.

Sec. 10017. Enhanced loan asset sale authority.

Subtitle B—Other Matters

Sec. 10021. Revision to prescription drug copayment.

Sec. 10022. Rounding down of cost-of-living adjustments in compensation and
DIC rates.

Sec. 10023. Revised standard for liability for injuries resulting from Department
of Veterans Affairs treatment.

Sec. 10024. Withholding of payments and benefits.

8 **Subtitle A—Extension of Temporary**
 9 **Authorities**

10 **SEC. 10011. AUTHORITY TO REQUIRE THAT CERTAIN VETER-**
 11 **ANS MAKE COPAYMENTS IN EXCHANGE FOR**
 12 **RECEIVING HEALTH-CARE BENEFITS.**

13 (a) *HOSPITAL AND MEDICAL CARE.*—*Section 8013(e)*
 14 *of the Omnibus Budget Reconciliation Act of 1990 (38*
 15 *U.S.C. 1710 note) is amended by striking out “September*

1 30, 1998” and inserting in lieu thereof “September 30,
2 2002”.

3 (b) *OUTPATIENT MEDICATIONS.*—Section 1722A(c) of
4 title 38, United States Code, is amended by striking out
5 “September 30, 1998” and inserting in lieu thereof “Sep-
6 tember 30, 2002”.

7 **SEC. 10012. MEDICAL CARE COST RECOVERY AUTHORITY.**

8 Section 1729(a)(2)(E) of title 38, United States Code,
9 is amended by striking out “before October 1, 1998,” and
10 inserting “before October 1, 2002,”.

11 **SEC. 10013. INCOME VERIFICATION AUTHORITY.**

12 Section 5317(g) of title 38, United States Code, is
13 amended by striking out “September 30, 1998” and insert-
14 ing in lieu thereof “September 30, 2002”.

15 **SEC. 10014. LIMITATION ON PENSION FOR CERTAIN RECIPI-**
16 **ENTS OF MEDICAID-COVERED NURSING**
17 **HOME CARE.**

18 Section 5503(f)(7) of title 38, United States Code, is
19 amended by striking out “September 30, 1998” and insert-
20 ing in lieu thereof “September 30, 2002”.

21 **SEC. 10015. HOME LOAN FEES.**

22 Section 3729(a) of title 38, United States Code, is
23 amended—

1 (1) in paragraph (4), by striking out “October 1,
2 1998” and inserting in lieu thereof “October 1, 2002”;
3 and

4 (2) in paragraph (5)(C), by striking out “Octo-
5 ber 1, 1998” and inserting in lieu thereof “October 1,
6 2002”.

7 **SEC. 10016. PROCEDURES APPLICABLE TO LIQUIDATION**
8 **SALES ON DEFAULTED HOME LOANS GUAR-**
9 **ANTEED BY THE DEPARTMENT OF VETERANS**
10 **AFFAIRS.**

11 Section 3732(c)(11) of title 38, United States Code, is
12 amended by striking out “October 1, 1998” and inserting
13 “October 1, 2002”.

14 **SEC. 10017. ENHANCED LOAN ASSET SALE AUTHORITY.**

15 Section 3720(h)(2) of title 38, United States Code, is
16 amended by striking out “December 31, 1995” and insert-
17 ing in lieu thereof “September 30, 2002”.

18 **Subtitle B—Other Matters**

19 **SEC. 10021. REVISION TO PRESCRIPTION DRUG**
20 **COPAYMENT.**

21 (a) *INCREASE IN AMOUNT OF COPAYMENT.*—Section
22 1722A(a) of title 38, United States Code, is amended—

23 (1) in paragraph (1), by striking out “\$2” and
24 inserting in lieu thereof “\$4”;

25 (2) by striking out paragraph (2); and

1 (3) by redesignating paragraph (3) as para-
2 graph (2) and in that paragraph—

3 (A) striking out “or” at the end of subpara-
4 graph (A);

5 (B) striking out the period at the end of
6 subparagraph (B) and inserting in lieu thereof
7 “; or”; and

8 (C) adding at the end the following new
9 subparagraph:

10 “(C) to a veteran who is a former prisoner of
11 war.”.

12 (b) *RECOVERY OF INDEBTEDNESS.*—(1) Section 5302
13 of such title is amended by adding at the end the following
14 new subsection:

15 “(f) The Secretary may not waive under this section
16 the recovery of any payment or the collection of any indebt-
17 edness owed under section 1722A of this title.”.

18 (2) The amendment made by paragraph (1) shall
19 apply with respect to amounts that become due to the Unit-
20 ed States under section 1722A of title 38, United States
21 Code, on or after the date of the enactment of this Act.

22 **SEC. 10022. ROUNDING DOWN OF COST-OF-LIVING ADJUST-**
23 **MENTS IN COMPENSATION AND DIC RATES.**

24 (a) *FISCAL YEAR 1996 COLA.*—(1) Effective as of De-
25 cember 1, 1995, the Secretary of Veterans Affairs shall re-

1 compute any increase in an adjustment that is otherwise
2 provided by law to be effective during fiscal year 1996 in
3 the rates of disability compensation and dependency and
4 indemnity compensation paid by the Secretary as such
5 rates were in effect on November 30, 1995. The recomputa-
6 tion shall provide for the same percentage increase as pro-
7 vided under such law, but with amounts so recomputed (if
8 not a whole dollar amount) rounded down to the next lower
9 whole dollar amount (rather than to the nearest whole dol-
10 lar amount) and with each old-law DIC rate increased by
11 the amount by which the new-law DIC rate is increased
12 (rather than by a uniform percentage).

13 (2) For purposes of paragraph (1):

14 (A) The term “old-law DIC rate” means a dollar
15 amount in effect under section 1311(a)(3) of title 38,
16 United States Code.

17 (B) The term “new-law DIC rate” means the
18 dollar amount in effect under section 1311(a)(1) of
19 title 38, United States Code.

20 (b) *OUT-YEAR COMPENSATION COLAS*.—(1) Chapter
21 11 of title 38, United States Code, is amended by inserting
22 after section 1102 the following new section:

23 **“§ 1103. Cost-of-living adjustments**

24 “(a) In the computation of cost-of-living adjustments
25 for fiscal years 1997 through 2002 in the rates of, and dol-

1 lar limitations applicable to, compensation payable under
2 this chapter, such adjustments shall be made by a uniform
3 percentage that is no more than the percentage equal to the
4 social security increase for that fiscal year, with all in-
5 creased monthly rates and limitations (other than increased
6 rates or limitations equal to a whole dollar amount) round-
7 ed down to the next lower whole dollar amount.

8 “(b) For purposes of this section, the term ‘social secu-
9 rity increase’ means the percentage by which benefit
10 amounts payable under title II of the Social Security Act
11 (42 U.S.C. 401 et seq.) are increased for any fiscal year
12 as a result of a determination under section 215(i) of such
13 Act (42 U.S.C. 415(i)).”

14 (2) The table of sections at the beginning of such chap-
15 ter is amended by inserting after the item relating to section
16 1102 the following new item:

“1103. Cost-of-living adjustments.”

17 (c) *OUT-YEAR DIC COLAS*.—(1) Chapter 13 of title
18 38, United States Code, is amended by inserting after sec-
19 tion 1302 the following new section:

20 **“§ 1303. Cost-of-living adjustments**

21 “(a) In the computation of cost-of-living adjustments
22 for fiscal years 1997 through 2002 in the rates of depend-
23 ency and indemnity compensation payable under this chap-
24 ter, such adjustments (except as provided in subsection (b))
25 shall be made by a uniform percentage that is no more than

1 *the percentage equal to the social security increase for that*
2 *fiscal year, with all increased monthly rates (other than in-*
3 *creased rates equal to a whole dollar amount) rounded down*
4 *to the next lower whole dollar amount.*

5 “(b)(1) *Cost-of-living adjustments for each of fiscal*
6 *years 1997 through 2002 in old-law DIC rates shall be in*
7 *a whole dollar amount that is no greater than the amount*
8 *by which the new-law DIC rate is increased for that fiscal*
9 *year as determined under subsection (a).*

10 “(2) *For purposes of paragraph (1):*

11 “(A) *The term ‘old-law DIC rates’ means the*
12 *dollar amounts in effect under section 1311(a)(3) of*
13 *this title.*

14 “(B) *The term ‘new-law DIC rate’ means the*
15 *dollar amount in effect under section 1311(a)(1) of*
16 *this title.*

17 “(c) *For purposes of this section, the term ‘social secu-*
18 *rity increase’ means the percentage by which benefit*
19 *amounts payable under title II of the Social Security Act*
20 *(42 U.S.C. 401 et seq.) are increased for any fiscal year*
21 *as a result of a determination under section 215(i) of such*
22 *Act (42 U.S.C. 415(i)).”.*

23 “(2) *The table of sections at the beginning of such chap-*
24 *ter is amended by inserting after the item relating to section*
25 *1302 the following new item:*

 “1303. *Cost-of-living adjustments.*”.

1 **SEC. 10023. REVISED STANDARD FOR LIABILITY FOR INJU-**
2 **RIES RESULTING FROM DEPARTMENT OF**
3 **VETERANS AFFAIRS TREATMENT.**

4 (a) *REVISED STANDARD.*—Section 1151 of title 38,
5 *United States Code, is amended—*

6 (1) *by designating the second sentence as sub-*
7 *section (c);*

8 (2) *by striking out the first sentence and insert-*
9 *ing in lieu thereof the following:*

10 “(a) *Compensation under this chapter and dependency*
11 *and indemnity compensation under chapter 13 of this title*
12 *shall be awarded for a qualifying additional disability of*
13 *a veteran or the qualifying death of a veteran in the same*
14 *manner as if such disability or death were service-con-*
15 *nected.*

16 “(b)(1) *For purposes of this section, a disability or*
17 *death is a qualifying additional disability or a qualifying*
18 *death only if the disability or death—*

19 “(A) *was caused by Department health care and*
20 *was a proximate result of—*

21 “(i) *negligence on the part of the Depart-*
22 *ment in furnishing the Department health care;*
23 *or*

24 “(ii) *an event not reasonably foreseeable; or*
25 “(B) *was incurred as a proximate result of the*
26 *provision of training and rehabilitation services by*

1 *the Secretary (including by a service-provider used by*
2 *the Secretary for such purpose under section 3115 of*
3 *this title) as part of an approved rehabilitation pro-*
4 *gram under chapter 31 of this title.*

5 *“(2) For purposes of this section, the term ‘Department*
6 *health care’ means hospital care, medical or surgical treat-*
7 *ment, or an examination that is furnished under any law*
8 *administered by the Secretary to a veteran by a Depart-*
9 *ment employee or in a facility over which the Secretary*
10 *has direct jurisdiction.*

11 *“(3) A disability or death of a veteran which is the*
12 *result of the veteran’s willful misconduct is not a qualifying*
13 *disability or death for purposes of this section.”; and*

14 *(3) by adding at the end the following:*

15 *“(d) Effective with respect to injuries, aggravations of*
16 *injuries, and deaths occurring after September 30, 2002, a*
17 *disability or death is a qualifying additional disability or*
18 *a qualifying death for purposes of this section (notwith-*
19 *standing the provisions of subsection (b)(1)) if the disability*
20 *or death—*

21 *“(1) was the result of Department health care; or*

22 *“(2) was the result of the pursuit of a course of*
23 *vocational rehabilitation under chapter 31 of this*
24 *title.”.*

1 (b) *CONFORMING AMENDMENTS.*—Subsection (c) of
2 such section, as designated by subsection (a)(1), is amend-
3 ed—

4 (1) by striking out “, aggravation,” both places
5 it appears; and

6 (2) by striking out “sentence” and inserting in
7 lieu thereof “subsection”.

8 (c) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to any administrative or judicial deter-
10 mination of eligibility for benefits under section 1151 of
11 title 38, United States Code, based on a claim that is re-
12 ceived by the Secretary on or after October 1, 1995, includ-
13 ing any such determination based on an original applica-
14 tion or an application seeking to reopen, revise, reconsider,
15 or otherwise readjudicate any claim for benefits under sec-
16 tion 1151 of that title or any predecessor provision of law.

17 **SEC. 10024. WITHHOLDING OF PAYMENTS AND BENEFITS.**

18 (a) *NOTICE REQUIRED IN LIEU OF CONSENT OR*
19 *COURT ORDER.*—Section 3726 of title 38, United States
20 Code, is amended by striking out “unless” and all that fol-
21 lows and inserting in lieu thereof the following: “unless the
22 Secretary provides such veteran or surviving spouse with
23 notice by certified mail with return receipt requested of the
24 authority of the Secretary to waive the payment of indebt-
25 edness under section 5302(b) of this title. If the Secretary

1 *does not waive the entire amount of the liability, the Sec-*
 2 *retary shall then determine whether the veteran or surviving*
 3 *spouse should be released from liability under section*
 4 *3713(b) of this title. If the Secretary determines that the*
 5 *veteran or surviving spouse should not be released from li-*
 6 *ability, the Secretary shall notify the veteran or surviving*
 7 *spouse of that determination and provide a notice of the*
 8 *procedure for appealing that determination, unless the Sec-*
 9 *retary has previously made such determination and notified*
 10 *the veteran or surviving spouse of the procedure for appeal-*
 11 *ing the determination.”.*

12 (b) *CONFORMING AMENDMENT.*—Section 5302(b) of
 13 such title is amended by inserting “with return receipt re-
 14 quested” after “certified mail”.

15 (c) *EFFECTIVE DATE.*—The amendments made by this
 16 section shall apply with respect to any indebtedness to the
 17 United States arising pursuant to chapter 37 of title 38,
 18 United States Code, before, on, or after the date of the enact-
 19 ment of this Act.

20 **TITLE XI—REVENUE**
 21 **PROVISIONS**

22 **SEC. 11000. SHORT TITLES; AMENDMENT OF 1986 CODE;**
 23 **TABLE OF CONTENTS.**

24 (a) *REVENUE RECONCILIATION ACT.*—This title may
 25 be cited as the “Revenue Reconciliation Act of 1995”.

1 (b) *CONTRACT WITH AMERICA*.—Subtitles A, B, C,
 2 and D of this title may be cited as the “Contract With
 3 America Tax Relief Act of 1995”.

4 (c) *AMENDMENT OF 1986 CODE*.—Except as otherwise
 5 expressly provided, whenever in this title an amendment
 6 or repeal is expressed in terms of an amendment to, or re-
 7 peal of, a section or other provision, the reference shall be
 8 considered to be made to a section or other provision of the
 9 Internal Revenue Code of 1986.

10 (d) *TABLE OF CONTENTS*.—The table of contents for
 11 this title is as follows:

TITLE XI—REVENUE PROVISIONS

Sec. 11000. Short titles; amendment of 1986 Code; table of contents.

Subtitle A—Family Tax Relief

Sec. 11001. Child tax credit.

Sec. 11002. Reduction in marriage penalty.

Sec. 11003. Credit for adoption expenses.

Sec. 11004. Deduction for interest on education loans.

*Sec. 11005. Deduction for taxpayers with certain persons requiring custodial care
 in their households.*

Subtitle B—Savings and Investment Incentives

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

SUBCHAPTER A—INDIVIDUAL RETIREMENT PLANS

PART I—RESTORATION OF IRA DEDUCTION

Sec. 11011. Restoration of IRA deduction.

Sec. 11012. Inflation adjustment for deductible amount.

Sec. 11013. Homemakers eligible for full IRA deduction.

PART II—NONDEDUCTIBLE TAX-FREE IRAS

Sec. 11015. Establishment of American Dream IRA.

SUBCHAPTER B—PENALTY-FREE DISTRIBUTIONS

Sec. 11016. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.

SUBCHAPTER C—SIMPLE SAVINGS PLANS

Sec. 11018. Establishment of savings incentive match plans for employees of small employers.

Sec. 11019. Extension of simple plan to 401(k) arrangements.

CHAPTER 2—CAPITAL GAINS REFORM

SUBCHAPTER A—TAXPAYERS OTHER THAN CORPORATIONS

Sec. 11021. Capital gains deduction.

Sec. 11022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.

Sec. 11023. Modifications to exclusion of gain on certain small business stock.

SUBCHAPTER B—CORPORATE CAPITAL GAINS

Sec. 11025. Reduction of alternative capital gain tax for corporations.

SUBCHAPTER C—CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE

Sec. 11026. Capital loss deduction allowed with respect to sale or exchange of principal residence.

CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM

Sec. 11031. Modification of depreciation rules under minimum tax.

Sec. 11032. Long-term unused credits allowed against minimum tax.

CHAPTER 4—COST RECOVERY PROVISIONS

Sec. 11035. Treatment of abandonment of lessor improvements at termination of lease.

Sec. 11036. Increase in expense treatment for small businesses.

Subtitle C—Health Related Provisions

CHAPTER 1—LONG-TERM CARE PROVISIONS

SUBCHAPTER A—LONG-TERM CARE SERVICES AND CONTRACTS

PART I—GENERAL PROVISIONS

Sec. 11041. Treatment of long-term care insurance.

Sec. 11042. Qualified long-term care services treated as medical care.

Sec. 11043. Certain exchanges of life insurance contracts for qualified long-term care insurance contracts not taxable.

Sec. 11044. Exception from penalty tax for amounts withdrawn from certain retirement plans for qualified long-term care insurance.

Sec. 11045. Reporting requirements.

PART II—CONSUMER PROTECTION PROVISIONS

Sec. 11051. Policy requirements.

- Sec. 11052. Requirements for issuers of long-term care insurance policies.*
Sec. 11053. Coordination with State requirements.
Sec. 11054. Effective dates.

SUBCHAPTER B—TREATMENT OF ACCELERATED DEATH BENEFITS

- Sec. 11061. Treatment of accelerated death benefits by recipient.*
Sec. 11062. Tax treatment of companies issuing qualified accelerated death benefit riders.

CHAPTER 2—MEDICAL SAVINGS ACCOUNTS

- Sec. 11066. Medical savings accounts.*

CHAPTER 3—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

- Sec. 11068. Increase in deduction for health insurance costs of self-employed individuals.*

Subtitle D—Estate and Gift Provisions

- Sec. 11071. Cost-of-living adjustments relating to estate and gift tax provisions.*
Sec. 11072. Family-owned business exclusion.
Sec. 11073. Treatment of land subject to a qualified conservation easement.
Sec. 11074. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.
Sec. 11075. Extension of treatment of certain rents under section 2032A to lineal descendants.

Subtitle E—Extension of Expiring Provisions

CHAPTER 1—TEMPORARY EXTENSIONS

- Sec. 11111. Work opportunity tax credit.*
Sec. 11112. Employer-provided educational assistance programs.
Sec. 11113. Research credit.
Sec. 11114. Orphan drug tax credit.
Sec. 11115. Contributions of stock to private foundations.
Sec. 11116. Delay of tax on fuel used in commercial aviation.
Sec. 11117. Extension of airport and airway trust fund excise taxes.
Sec. 11118. Extension of Internal Revenue Service user fees.

CHAPTER 2—SUNSET OF LOW-INCOME HOUSING CREDIT

- Sec. 11121. Sunset of low-income housing credit.*

CHAPTER 3—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES

- Sec. 11131. Extension of Hazardous Substance Superfund taxes.*
Sec. 11132. Extension of oil spill liability tax.

CHAPTER 4—EXTENSIONS RELATING TO FUEL TAXES

- Sec. 11141. Ethanol blender refunds.*
Sec. 11142. Extension of binding contract date for biomass and coal facilities.
Sec. 11143. Exemption from diesel fuel dyeing requirements with respect to certain States.

Sec. 11144. Moratorium for excise tax on diesel fuel sold for use or used in diesel-powered motorboats.

CHAPTER 5—PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

Sec. 11151. FUTA exemption for alien agricultural workers.

CHAPTER 6—DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS

Sec. 11161. Disclosure of return information for administration of certain veterans programs.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

- Sec. 11201. Expansion of authority to abate interest.*
Sec. 11202. Extension of interest-free period for payment of tax after notice and demand.
Sec. 11203. Joint return may be made after separate returns without full payment of tax.
Sec. 11204. Modifications to certain levy exemption amounts.
Sec. 11205. Offers-in-compromise.
Sec. 11206. Increased limit on attorney fees.
Sec. 11207. Award of litigation costs permitted in declaratory judgment proceedings.
Sec. 11208. Increase in limit on recovery of civil damages for unauthorized collection actions.
Sec. 11209. Enrolled agents included as third-party recordkeepers.
Sec. 11210. Annual reminders to taxpayers with outstanding delinquent accounts.

Subtitle G—Casualty and Involuntary Conversion Provisions

- Sec. 11251. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.*
Sec. 11252. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.
Sec. 11253. Special rule for crop insurance proceeds and disaster payments.
Sec. 11254. Application of involuntary exclusion rules to presidentially declared disasters.

Subtitle H—Exempt Organizations and Charitable Reforms

CHAPTER 1—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

- Sec. 11271. Excise taxes for failure by certain charitable organizations to meet certain qualification requirements.*
Sec. 11272. Reporting of certain excise taxes and other information.
Sec. 11273. Increase in penalties on exempt organizations for failure to file complete and timely annual returns.

CHAPTER 2—OTHER PROVISIONS

- Sec. 11276. Cooperative service organizations for certain foundations.*
Sec. 11277. Exclusion from unrelated business taxable income for certain sponsorship payments.
Sec. 11278. Treatment of dues paid to agricultural or horticultural organizations.

Sec. 11279. Repeal of credit for contributions to community development corporations.

Subtitle I—Tax Reform and Other Provisions

CHAPTER 1—PROVISIONS RELATING TO BUSINESSES

Sec. 11301. Tax treatment of certain extraordinary dividends.

Sec. 11302. Registration of confidential corporate tax shelters.

Sec. 11303. Denial of deduction for interest on loans with respect to company-owned insurance.

Sec. 11304. Termination of suspense accounts for family corporations required to use accrual method of accounting.

Sec. 11305. Termination of Puerto Rico and possession tax credit.

Sec. 11306. Depreciation under income forecast method.

Sec. 11307. Transfers of excess pension assets.

Sec. 11308. Repeal of exclusion for interest on loans used to acquire employer securities.

CHAPTER 2—LEGAL REFORMS

Sec. 11311. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.

Sec. 11312. Reporting of certain payments made to attorneys.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

Sec. 11321. No rollover or exclusion of gain on sale of principal residence which is attributable to depreciation deductions.

Sec. 11322. Nonrecognition of gain on sale of principal residence by noncitizens limited to new residences located in the United States.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

Sec. 11331. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.

Sec. 11332. Modifications to excise tax on ozone-depleting chemicals.

Sec. 11333. Election to avoid tax-exempt bond penalties for local furnishers of electricity and gas.

Sec. 11334. Tax-exempt bonds for sale of Alaska Power Administration Facility.

CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE

Sec. 11341. Improved information reporting on foreign trusts.

Sec. 11342. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.

Sec. 11343. Foreign persons not to be treated as owners under grantor trust rules.

Sec. 11344. Information reporting regarding foreign gifts.

Sec. 11345. Modification of rules relating to foreign trusts which are not grantor trusts.

Sec. 11346. Residence of estates and trusts, etc.

CHAPTER 6—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP

Sec. 11348. Revision of income, estate, and gift taxes on individuals who lose United States citizenship.

Sec. 11349. Information on individuals losing United States citizenship.

CHAPTER 7—FINANCIAL ASSET SECURITIZATION INVESTMENTS

Sec. 11351. Financial Asset Securitization Investment Trusts.

CHAPTER 8—DEPRECIATION PROVISIONS

Sec. 11361. Treatment of contributions in aid of construction.

Sec. 11362. Deduction for certain operating authority.

Sec. 11363. Class life for gas station convenience stores and similar structures.

CHAPTER 9—OTHER PROVISIONS

Sec. 11371. Application of failure-to-pay penalty to substitute returns.

Sec. 11372. Extension of withholding to certain gambling winnings.

Sec. 11373. Losses from foreclosure property.

Sec. 11374. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.

Sec. 11375. Exclusion for energy conservation subsidies limited to subsidies with respect to dwelling units.

Sec. 11376. Election to cease status as qualified scholarship funding corporation.

Sec. 11377. Certain amounts derived from foreign corporations treated as unrelated business taxable income.

Sec. 11378. Repeal of financial institution transition rule to interest allocation rules.

Sec. 11379. Repeal of bad debt reserve method for thrift savings associations.

Sec. 11380. Newspaper distributors treated as direct sellers.

Subtitle J—Tax Simplification

CHAPTER 1—PROVISIONS RELATING TO INDIVIDUALS

SUBCHAPTER A—PROVISIONS RELATING TO ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE

Sec. 11401. Multiple sales within rollover period.

Sec. 11402. Special rules in case of divorce.

Sec. 11403. One-time exclusion of gain from sale of principal residence for certain spouses.

SUBCHAPTER B—OTHER PROVISIONS

Sec. 11411. Treatment of certain reimbursed expenses of rural mail carriers.

Sec. 11412. Treatment of traveling expenses of certain Federal employees engaged in criminal investigations.

CHAPTER 2—PENSION SIMPLIFICATION

SUBCHAPTER A—SIMPLIFIED DISTRIBUTION RULES

Sec. 11421. Repeal of 5-year income averaging for lump-sum distributions.

Sec. 11422. Repeal of \$5,000 exclusion of employees' death benefits.

Sec. 11423. Simplified method for taxing annuity distributions under certain employer plans.

Sec. 11424. Required distributions.

SUBCHAPTER B—INCREASED ACCESS TO PENSION PLANS

Sec. 11431. Tax-exempt organizations eligible under section 401(k).

SUBCHAPTER C—NONDISCRIMINATION PROVISIONS

- Sec. 11441. Definition of highly compensated employees; repeal of family aggregation.*
- Sec. 11442. Modification of additional participation requirements.*
- Sec. 11443. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.*
- Sec. 11444. Definition of compensation for section 415 purposes.*

SUBCHAPTER D—MISCELLANEOUS PROVISIONS

- Sec. 11451. Plans covering self-employed individuals.*
- Sec. 11452. Elimination of special vesting rule for multiemployer plans.*
- Sec. 11453. Distributions under rural cooperative plans.*
- Sec. 11454. Treatment of governmental plans under section 415.*
- Sec. 11455. Uniform retirement age.*
- Sec. 11456. Contributions on behalf of disabled employees.*
- Sec. 11457. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.*
- Sec. 11458. Trust requirement for deferred compensation plans of State and local governments.*
- Sec. 11459. Transition rule for computing maximum benefits under section 415 limitations.*
- Sec. 11460. Modifications of section 403(b).*
- Sec. 11461. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.*
- Sec. 11462. Repeal of limitation in case of defined benefit plan and defined contribution plan for same employee; excess distributions.*
- Sec. 11463. Tax on prohibited transactions.*
- Sec. 11464. Treatment of leased employees.*

CHAPTER 3—TREATMENT OF LARGE PARTNERSHIPS

- Sec. 11471. Simplified flow-through for electing large partnerships.*
- Sec. 11472. Returns may be required on magnetic media.*

CHAPTER 4—FOREIGN PROVISIONS

SUBCHAPTER A—MODIFICATIONS TO TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

- Sec. 11481. United States shareholders of controlled foreign corporations not subject to PFIC inclusion.*
- Sec. 11482. Election of mark to market for marketable stock in passive foreign investment company.*
- Sec. 11483. Modifications to definition of passive income.*
- Sec. 11484. Effective date.*

SUBCHAPTER B—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

- Sec. 11486. Gain on certain stock sales by controlled foreign corporations treated as dividends.*
- Sec. 11487. Miscellaneous modifications to subpart F.*
- Sec. 11488. Indirect foreign tax credit allowed for certain lower tier companies.*
- Sec. 11489. Repeal of inclusion of certain earnings invested in excess passive assets.*

CHAPTER 5—OTHER INCOME TAX PROVISIONS

SUBCHAPTER A—PROVISIONS RELATING TO S CORPORATIONS

- Sec. 11501. S corporations permitted to have 75 shareholders.*
- Sec. 11502. Electing small business trusts.*
- Sec. 11503. Expansion of post-death qualification for certain trusts.*
- Sec. 11504. Financial institutions permitted to hold safe harbor debt.*
- Sec. 11505. Rules relating to inadvertent terminations and invalid elections.*
- Sec. 11506. Agreement to terminate year.*
- Sec. 11507. Expansion of post-termination transition period.*
- Sec. 11508. S corporations permitted to hold subsidiaries.*
- Sec. 11509. Treatment of distributions during loss years.*
- Sec. 11510. Treatment of S corporations under subchapter C.*
- Sec. 11511. Elimination of certain earnings and profits.*
- Sec. 11512. Carryover of disallowed losses and deductions under at-risk rules allowed.*
- Sec. 11513. Adjustments to basis of inherited S stock to reflect certain items of income.*
- Sec. 11514. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers.*
- Sec. 11515. Effective date.*

SUBCHAPTER B—REPEAL OF 30-PERCENT GROSS INCOME LIMITATION ON REGULATED INVESTMENT COMPANIES

- Sec. 11521. Repeal of 30-percent gross income limitation.*

SUBCHAPTER C—ACCOUNTING PROVISIONS

- Sec. 11551. Modifications to look-back method for long-term contracts.*
- Sec. 11552. Application of mark to market accounting method to traders in securities.*
- Sec. 11553. Modification of ruling amounts for nuclear decommissioning costs.*

SUBCHAPTER D—TAX-EXEMPT BOND PROVISION

- Sec. 11561. Repeal of debt service-based limitation on investment in certain nonpurpose investments.*

SUBCHAPTER E—INSURANCE PROVISIONS

- Sec. 11571. Treatment of certain insurance contracts on retired lives.*
- Sec. 11572. Treatment of modified guaranteed contracts.*

SUBCHAPTER F—OTHER PROVISIONS

- Sec. 11581. Closing of partnership taxable year with respect to deceased partner, etc.*
- Sec. 11582. Credit for social security taxes paid with respect to employee cash tips.*
- Sec. 11583. Due date for first quarter estimated tax payments by private foundations.*

CHAPTER 6—ESTATES AND TRUSTS

SUBCHAPTER A—INCOME TAX PROVISIONS

- Sec. 11601. Certain revocable trusts treated as part of estate.*
- Sec. 11602. Distributions during first 65 days of taxable year of estate.*

- Sec. 11603. Separate share rules available to estates.*
Sec. 11604. Executor of estate and beneficiaries treated as related persons for disallowance of losses, etc.
Sec. 11605. Limitation on taxable year of estates.
Sec. 11606. Treatment of funeral trusts.

SUBCHAPTER B—ESTATE AND GIFT TAX PROVISIONS

- Sec. 11611. Clarification of waiver of certain rights of recovery.*
Sec. 11612. Adjustments for gifts within 3 years of decedent's death.
Sec. 11613. Clarification of qualified terminable interest rules.
Sec. 11614. Transitional rule under section 2056A.
Sec. 11615. Opportunity to correct certain failures under section 2032A.
Sec. 11616. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations.
Sec. 11617. Clarifications relating to disclaimers.
Sec. 11618. Clarification of treatment of survivor annuities under qualified terminable interest rules.
Sec. 11619. Treatment under qualified domestic trust rules of forms of ownership which are not trusts.

SUBCHAPTER C—GENERATION-SKIPPING TAX PROVISIONS

- Sec. 11631. Taxable termination not to include direct skips.*

CHAPTER 7—EXCISE TAX SIMPLIFICATION

SUBCHAPTER A—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

- Sec. 11641. Credit or refund for imported bottled distilled spirits returned to distilled spirits plant.*
Sec. 11642. Fermented material from any brewery may be received at a distilled spirits plant.
Sec. 11643. Refund of tax on wine returned to bond not limited to unmerchantable wine.
Sec. 11644. Beer may be withdrawn free of tax for destruction.
Sec. 11645. Transfer to brewery of beer imported in bulk without payment of tax.

SUBCHAPTER B—CONSOLIDATION OF TAXES ON AVIATION GASOLINE

- Sec. 11651. Consolidation of taxes on aviation gasoline.*

SUBCHAPTER C—OTHER EXCISE TAX PROVISIONS

- Sec. 11661. Certain combinations not treated as manufacture under retail sales tax on heavy trucks.*

CHAPTER 8—ADMINISTRATIVE PROVISION

- Sec. 11671. Certain notices disregarded under provision increasing interest rate on large corporate underpayments.*

Subtitle K—Miscellaneous Provisions

- Sec. 11701. Treatment of storage of product samples.*
Sec. 11702. Adjustment of death benefit limits for certain policies.
Sec. 11703. Organizations subject to section 833.

Sec. 11704. Correction of inflation adjustment in luxury excise tax on automobiles.

Sec. 11705. Extension and phasedown of luxury passenger automobile tax.

Subtitle L—Generalized System of Preferences

Sec. 11801. Short title.

Sec. 11802. Generalized System of Preferences.

Sec. 11803. Retroactive application for certain liquidations and reliquidations.

Sec. 11804. Conforming amendments.

Subtitle M—Increase in Public Debt Limit

Sec. 11901. Increase in public debt limit.

1 ***Subtitle A—Family Tax Relief***

2 ***SEC. 11001. CHILD TAX CREDIT.***

3 (a) *IN GENERAL.*—Subpart A of part IV of subchapter
4 *A* of chapter 1 (relating to nonrefundable personal credits)
5 *is amended by inserting after section 22 the following new*
6 *section:*

7 ***“SEC. 23. CHILD TAX CREDIT.***

8 “(a) *ALLOWANCE OF CREDIT.*—There shall be allowed
9 *as a credit against the tax imposed by this chapter for the*
10 *taxable year an amount equal to \$500 multiplied by the*
11 *number of qualifying children of the taxpayer.*

12 “(b) *LIMITATION.*—

13 “(1) *IN GENERAL.*—The amount of the credit
14 *which would (but for this subsection) be allowed by*
15 *subsection (a) shall be reduced (but not below zero) by*
16 *\$25 for each \$1,000 (or fraction thereof) by which the*
17 *taxpayer’s adjusted gross income exceeds the threshold*
18 *amount.*

1 “(2) *THRESHOLD AMOUNT.*—For purposes of
2 paragraph (1), the term ‘threshold amount’ means—

3 “(A) \$110,000 in the case of a joint return,

4 “(B) \$75,000 in the case of an individual
5 who is not married, and

6 “(C) \$55,000 in the case of a married indi-
7 vidual filing a separate return.

8 For purposes of this paragraph, marital status shall
9 be determined under section 7703.

10 “(c) *QUALIFYING CHILD.*—For purposes of this sec-
11 tion—

12 “(1) *IN GENERAL.*—The term ‘qualifying child’
13 means any individual if—

14 “(A) the taxpayer is allowed a deduction
15 under section 151 with respect to such individual
16 for such taxable year,

17 “(B) such individual has not attained the
18 age of 18 as of the close of the calendar year in
19 which the taxable year of the taxpayer begins,
20 and

21 “(C) such individual bears a relationship to
22 the taxpayer described in section 32(c)(3)(B) (de-
23 termined without regard to clause (ii) thereof).

24 “(2) *EXCEPTION FOR CERTAIN NONCITIZENS.*—
25 The term ‘qualifying child’ shall not include any in-

1 *dividual who would not be a dependent if the first*
2 *sentence of section 152(b)(3) were applied without re-*
3 *gard to all that follows ‘resident of the United States’.*

4 *“(d) TAXABLE YEAR MUST BE FULL TAXABLE*
5 *YEAR.—Except in the case of a taxable year closed by rea-*
6 *son of the death of the taxpayer, no credit shall be allowable*
7 *under this section in the case of a taxable year covering*
8 *a period of less than 12 months.”.*

9 *(b) NOTICE OF CREDIT.—The Secretary of the Treas-*
10 *ury shall transmit to all individual taxpayers by a separate*
11 *mailing made on or before February 1, 1996, a notice which*
12 *states only the following: “The Balanced Budget Act of 1995*
13 *was recently passed by the Congress. The Act’s child tax*
14 *credit allows taxpayers to reduce their taxes by \$500 per*
15 *child. The credit is effective October 1, 1995. You may wish*
16 *to check with your employer about changing your tax with-*
17 *holding to take immediate advantage of the credit to which*
18 *you are entitled for the current tax year. In addition, the*
19 *Internal Revenue Service will be sending you a form in*
20 *June of this year which you may use to claim the credit*
21 *to which you are entitled for the period from October 1*
22 *through December 31, 1995 (\$125 per child for 1995). In*
23 *order to obtain your 1995 credit, you should file this form*
24 *by August 15, 1996. Your refund will be sent to you some-*
25 *time after October 1, 1996.”*

1 (c) *CLERICAL AMENDMENT.*—*The table of sections for*
2 *subpart A of part IV of subchapter A of chapter 1 is amend-*
3 *ed by inserting after the item relating to section 22 the fol-*
4 *lowing new item:*

 “Sec. 23. *Child tax credit.*”.

5 (d) *EFFECTIVE DATE.*—*The amendments made by this*
6 *section shall apply to taxable years beginning after Decem-*
7 *ber 31, 1995.*

8 (e) *PAYMENT OF 1995 CHILD CREDIT AMOUNT.*—

9 (1) *IN GENERAL.*—*The Secretary shall take such*
10 *actions as are necessary to ensure that the 1995 child*
11 *credit amount is paid to taxpayers entitled to pay-*
12 *ment of such credit amount.*

13 (2) *PAYMENTS GENERALLY DURING OCTOBER*
14 *1996.*—*In the case of taxpayers submitting the form*
15 *referred to in paragraph (4) before August 16, 1996,*
16 *the Secretary shall take such actions as are necessary*
17 *to ensure that payments required by paragraph (1)*
18 *are mailed after September 30, 1996, and before Octo-*
19 *ber 16, 1996.*

20 (3) *1995 CHILD CREDIT AMOUNT.*—*For purposes*
21 *of paragraph (1), the 1995 child credit amount is an*
22 *amount equal to 25 percent of the amount of the cred-*
23 *it which would be allowed to the taxpayer under sec-*
24 *tion 23 of the Internal Revenue Code of 1986 (as*

1 *added by this section) if such section were in effect for*
2 *the taxpayer's taxable year beginning in 1995.*

3 (4) *ENTITLEMENT TO CREDIT.*—*A taxpayer shall*
4 *be entitled to a 1995 child credit amount if (and only*
5 *if) the taxpayer submits to the Secretary a form*
6 *which the Secretary shall prescribe for purposes of de-*
7 *termining such amount. The Secretary shall mail*
8 *such form to taxpayers on or before June 1, 1996.*

9 (5) *PAYMENT TREATED AS OVERPAYMENT.*—*The*
10 *1995 child credit amount shall be treated for purposes*
11 *of subtitle F of such Code as a payment of tax for the*
12 *taxpayer's taxable year beginning in 1995 which was*
13 *made on August 15, 1996, or, if later, the date the*
14 *form referred to in paragraph (4) is filed, and shall*
15 *be refunded or credited in the same manner as if it*
16 *were an overpayment of tax for such taxable year. No*
17 *interest shall be paid under section 6611 of such Code*
18 *on amounts paid under paragraph (1) before October*
19 *16, 1996.*

20 (6) *SECRETARY.*—*For purposes of this sub-*
21 *section, the term "Secretary" means the Secretary of*
22 *the Treasury or his delegate.*

1 **SEC. 11002. REDUCTION IN MARRIAGE PENALTY.**

2 (a) INCREASE IN BASIC STANDARD DEDUCTION FOR
 3 MARRIED INDIVIDUALS.—Section 63(c) (relating to stand-
 4 ard deduction) is amended—

5 (1) by striking “\$5,000” in paragraph (2)(A)
 6 and inserting “the applicable dollar amount”,

7 (2) by striking “\$2,500” in paragraph (2)(D)
 8 and inserting “ $\frac{1}{2}$ of the applicable dollar amount”,
 9 and

10 (3) by inserting after paragraph (6) the follow-
 11 ing new paragraph:

12 “(7) APPLICABLE DOLLAR AMOUNT.—For pur-
 13 poses of paragraph (2), the applicable dollar amount
 14 for any taxable year shall be the product of the dollar
 15 amount in effect under paragraph (2)(C) for such
 16 year multiplied by the applicable factor determined
 17 under the following table:

For taxable years beginning in calendar year—	The applicable factor is—
1996	1.68
1997	1.71
1998	1.72
1999	1.73
2000	1.75
2001	1.77
2002	1.78
2003	1.88
2004	1.91
2005 and thereafter	2.00.

18 If the amount determined under the preceding sen-
 19 tence is not a multiple of \$50, such amount shall be
 20 rounded to the nearest multiple of \$50.”

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 1995.*

4 ***SEC. 11003. CREDIT FOR ADOPTION EXPENSES.***

5 (a) *IN GENERAL.*—*Subpart A of part IV of subchapter*
6 *A of chapter 1 (relating to nonrefundable personal credits),*
7 *as amended by section 11001, is amended by inserting after*
8 *section 23 the following new section:*

9 ***“SEC. 24. ADOPTION EXPENSES.***

10 “*(a) ALLOWANCE OF CREDIT.*—*In the case of an indi-*
11 *vidual, there shall be allowed as a credit against the tax*
12 *imposed by this chapter for the taxable year the amount*
13 *of the qualified adoption expenses paid or incurred by the*
14 *taxpayer during such taxable year.*

15 “*(b) LIMITATIONS.*—

16 “*(1) DOLLAR LIMITATION.*—*The aggregate*
17 *amount of qualified adoption expenses which may be*
18 *taken into account under subsection (a) with respect*
19 *to the adoption of a child shall not exceed \$5,000.*

20 “*(2) INCOME LIMITATION.*—*The amount allow-*
21 *able as a credit under subsection (a) for any taxable*
22 *year shall be reduced (but not below zero) by an*
23 *amount which bears the same ratio to the amount so*
24 *allowable (determined without regard to this para-*
25 *graph but with regard to paragraph (1)) as—*

1 “(A) *the amount (if any) by which the tax-*
2 *payer’s adjusted gross income (determined with-*
3 *out regard to sections 911, 931, and 933) exceeds*
4 *\$75,000, bears to*

5 “(B) *\$40,000.*

6 “(3) *DENIAL OF DOUBLE BENEFIT.—*

7 “(A) *IN GENERAL.—No credit shall be al-*
8 *lowed under subsection (a) for any expense for*
9 *which a deduction or credit is allowable under*
10 *any other provision of this chapter.*

11 “(B) *GRANTS.—No credit shall be allowed*
12 *under subsection (a) for any expense to the ex-*
13 *tent that funds for such expense are received*
14 *under any Federal, State, or local program. The*
15 *preceding sentence shall not apply to expenses for*
16 *the adoption of a child with special needs.*

17 “(C) *REIMBURSEMENT.—No credit shall be*
18 *allowed under subsection (a) for any expense to*
19 *the extent that such expense is reimbursed and*
20 *the reimbursement is excluded from gross income*
21 *under section 138.*

22 “(c) *CARRYFORWARDS OF UNUSED CREDIT.—If the*
23 *credit allowable under subsection (a) for any taxable year*
24 *exceeds the limitation imposed by section 26(a) for such tax-*
25 *able year reduced by the sum of the credits allowable under*

1 *this subpart (other than this section), such excess shall be*
2 *carried to the succeeding taxable year and added to the*
3 *credit allowable under subsection (a) for such taxable year.*
4 *No credit may be carried forward under this subsection to*
5 *any taxable year following the fifth taxable year after the*
6 *taxable year in which the credit arose. For purposes of the*
7 *preceding sentence, credits shall be treated as used on a*
8 *first-in first-out basis.*

9 “(d) *DEFINITIONS.—For purposes of this section—*

10 “(1) *QUALIFIED ADOPTION EXPENSES.—The*
11 *term ‘qualified adoption expenses’ means reasonable*
12 *and necessary adoption fees, court costs, attorney fees,*
13 *and other expenses—*

14 “(A) *which are directly related to, and the*
15 *principal purpose of which is for, the legal adop-*
16 *tion of an eligible child by the taxpayer, and*

17 “(B) *which are not incurred in violation of*
18 *State or Federal law or in carrying out any sur-*
19 *rogate parenting arrangement.*

20 *Such term shall not include expenses for a foreign*
21 *adoption unless the child is actually adopted.*

22 “(2) *EXPENSES FOR ADOPTION OF SPOUSE’S*
23 *CHILD NOT ELIGIBLE.—The term ‘qualified adoption*
24 *expenses’ shall not include any expenses in connection*

1 *with the adoption by an individual of a child who is*
2 *the child of such individual's spouse.*

3 “(3) *ELIGIBLE CHILD.*—*The term ‘eligible child’*
4 *means any individual—*

5 “(A) *who has not attained age 18 as of the*
6 *time of the adoption, or*

7 “(B) *who is physically or mentally incapa-*
8 *ble of caring for himself.*

9 “(4) *CHILD WITH SPECIAL NEEDS.*—*The term*
10 *‘child with special needs’ means any child if—*

11 “(A) *a State has determined that the child*
12 *cannot or should not be returned to the home of*
13 *his parents, and*

14 “(B) *such State has determined that there*
15 *exists with respect to the child a specific factor*
16 *or condition (such as his ethnic background, age,*
17 *or membership in a minority or sibling group,*
18 *or the presence of factors such as medical condi-*
19 *tions or physical, mental, or emotional handi-*
20 *caps) because of which it is reasonable to con-*
21 *clude that such child cannot be placed with*
22 *adoptive parents without providing adoption as-*
23 *sistance.*

24 “(e) *MARRIED COUPLES MUST FILE JOINT RE-*
25 *URNS.*—*Rules similar to the rules of paragraphs (2), (3),*

1 *and (4) of section 21(e) shall apply for purposes of this sec-*
2 *tion.”.*

3 **(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EM-**
4 *PLOYER’S ADOPTION ASSISTANCE PROGRAMS.—Part III of*
5 *subchapter B of chapter 1 (relating to items specifically ex-*
6 *cluded from gross income), as amended by title VIII, is*
7 *amended by redesignating section 138 as section 139 and*
8 *by inserting after section 137 the following new section:*

9 **“SEC. 138. ADOPTION ASSISTANCE PROGRAMS.**

10 **“(a) IN GENERAL.—***Gross income of an employee does*
11 *not include amounts paid or expenses incurred by the em-*
12 *ployer for qualified adoption expenses in connection with*
13 *the adoption of a child by an employee if such amounts*
14 *are furnished pursuant to an adoption assistance program.*

15 **“(b) LIMITATIONS.—**

16 **“(1) DOLLAR LIMITATION.—***The aggregate*
17 *amount excludable from gross income under sub-*
18 *section (a) for all taxable years with respect to the*
19 *adoption of any single child by the taxpayer shall not*
20 *exceed \$5,000.*

21 **“(2) INCOME LIMITATION.—***The amount exclud-*
22 *able from gross income under subsection (a) for any*
23 *taxable year shall be reduced (but not below zero) by*
24 *an amount which bears the same ratio to the amount*

1 so excludable (determined without regard to this
2 paragraph but with regard to paragraph (1)) as—

3 “(A) the amount (if any) by which the tax-
4 payer’s adjusted gross income (determined with-
5 out regard to this section and sections 911, 931,
6 and 933) exceeds \$75,000, bears to

7 “(B) \$40,000.

8 “(c) *ADOPTION ASSISTANCE PROGRAM.*—For purposes
9 of this section, an adoption assistance program is a plan
10 of an employer—

11 “(1) under which the employer provides employ-
12 ees with adoption assistance, and

13 “(2) which meets requirements similar to the re-
14 quirements of paragraphs (2), (3), and (5) of section
15 127(b).

16 *An adoption reimbursement program operated under sec-*
17 *tion 1052 of title 10, United States Code (relating to armed*
18 *forces) or section 514 of title 14, United States Code (relat-*
19 *ing to members of the Coast Guard) shall be treated as an*
20 *adoption assistance program for purposes of this section.*

21 “(d) *QUALIFIED ADOPTION EXPENSES.*—For purposes
22 of this section, the term ‘qualified adoption expenses’ has
23 the meaning given such term by section 24(d).”.

24 (c) *CONFORMING AMENDMENTS.*—

1 *payer during the taxable year on any qualified education*
2 *loan.*

3 “(b) *MAXIMUM DEDUCTION.*—

4 “(1) *IN GENERAL.*—*Except as provided in para-*
5 *graph (2), the deduction allowed by subsection (a) for*
6 *the taxable year shall not exceed \$2,500.*

7 “(2) *LIMITATION BASED ON MODIFIED ADJUSTED*
8 *GROSS INCOME.*—

9 “(A) *IN GENERAL.*—*If the modified adjusted*
10 *gross income of the taxpayer for the taxable year*
11 *exceeds \$45,000 (\$65,000 in the case of a joint*
12 *return), the amount which would (but for this*
13 *paragraph) be allowable as a deduction under*
14 *this section shall be reduced (but not below zero)*
15 *by the amount which bears the same ratio to the*
16 *amount which would be so allowable as such ex-*
17 *cess bears to \$20,000.*

18 “(B) *MODIFIED ADJUSTED GROSS IN-*
19 *COME.*—*The term ‘modified adjusted gross in-*
20 *come’ means adjusted gross income determined—*

21 “(i) *without regard to this section and*
22 *sections 135, 911, 931, and 933, and*

23 “(ii) *after application of sections 86,*
24 *219, and 469.*

1 *For purposes of sections 86, 135, 219, and 469,*
2 *adjusted gross income shall be determined with-*
3 *out regard to the deduction allowed under this*
4 *section.*

5 “(C) *INFLATION ADJUSTMENT.*—*In the case*
6 *of any taxable year beginning after 1996, the*
7 *\$45,000 and \$65,000 amounts referred to in sub-*
8 *paragraph (A) shall be increased by an amount*
9 *equal to—*

10 “(i) *such dollar amount, multiplied by*
11 “(ii) *the cost-of-living adjustment de-*
12 *termined under section (1)(f)(3) for the cal-*
13 *endar year in which the taxable year be-*
14 *gins, by substituting ‘1995’ for ‘1992’.*

15 “(D) *ROUNDING.*—*If any amount as ad-*
16 *justed under subparagraph (C) is not a multiple*
17 *of \$50, such amount shall be rounded to the*
18 *nearest multiple of \$50.*

19 “(c) *DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.*—
20 *No deduction shall be allowed by this section to an individ-*
21 *ual for the taxable year if a deduction under section 151*
22 *with respect to such individual is allowed to another tax-*
23 *payer for the taxable year beginning in the calendar year*
24 *in which such individual’s taxable year begins.*

1 “(d) *LIMIT ON PERIOD DEDUCTION ALLOWED.*—A de-
2 *duction shall be allowed under this section only with respect*
3 *to interest paid on any qualified education loan during the*
4 *first 60 months (whether or not consecutive) in which inter-*
5 *est payments are required. For purposes of this paragraph,*
6 *any loan and all refinancings of such loan shall be treated*
7 *as 1 loan.*

8 “(e) *DEFINITIONS.*—*For purposes of this section—*

9 “(1) *QUALIFIED EDUCATION LOAN.*—*The term*
10 *‘qualified education loan’ means any indebtedness in-*
11 *curring to pay qualified higher education expenses—*

12 “(A) *which are incurred on behalf of the*
13 *taxpayer or the taxpayer’s spouse,*

14 “(B) *which are paid or incurred within a*
15 *reasonable period of time before or after the in-*
16 *debtedness is incurred, and*

17 “(C) *which are attributable to education*
18 *furnished during a period during which the re-*
19 *cipient was at least a half-time student.*

20 *Such term includes indebtedness used to refinance in-*
21 *debtedness which qualifies as a qualified education*
22 *loan. The term ‘qualified education loan’ shall not in-*
23 *clude any indebtedness owed to a person who is relat-*
24 *ed (within the meaning of section 267(b) or*
25 *707(b)(1)) to the taxpayer.*

1 “(2) *QUALIFIED HIGHER EDUCATION EX-*
2 *PENSES.*—*The term ‘qualified higher education ex-*
3 *penditures’ means the cost of attendance (as defined in*
4 *section 472 of the Higher Education Act of 1965, 20*
5 *U.S.C. 1087l, as in effect on the day before the date*
6 *of the enactment of this Act) of the taxpayer or the*
7 *taxpayer’s spouse at an eligible educational institu-*
8 *tion, reduced by the sum of—*

9 “(A) *the amount excluded from gross in-*
10 *come under section 135 by reason of such ex-*
11 *penditures, and*

12 “(B) *the amount of the reduction described*
13 *in section 135(d)(1).*

14 *For purposes of the preceding sentence, the term ‘eli-*
15 *gible educational institution’ has the same meaning*
16 *given such term by section 135(c)(3), except that such*
17 *term shall also include an institution conducting an*
18 *internship or residency program leading to a degree*
19 *or certificate awarded by an institution of higher edu-*
20 *cation, a hospital, or a health care facility which of-*
21 *fers postgraduate training.*

22 “(3) *HALF-TIME STUDENT.*—*The term ‘half-time*
23 *student’ means any individual who would be a stu-*
24 *dent as defined in section 151(c)(4) if ‘half-time’ were*

1 *substituted for ‘full-time’ each place it appears in*
2 *such section.*

3 “(4) *DEPENDENT.*—*The term ‘dependent’ has the*
4 *meaning given such term by section 152.*

5 “(f) *SPECIAL RULES.*—

6 “(1) *DENIAL OF DOUBLE BENEFIT.*—*No deduc-*
7 *tion shall be allowed under this section for any*
8 *amount for which a deduction is allowable under any*
9 *other provision of this chapter.*

10 “(2) *MARRIED COUPLES MUST FILE JOINT RE-*
11 *TURN.*—*If the taxpayer is married at the close of the*
12 *taxable year, the deduction shall be allowed under*
13 *subsection (a) only if the taxpayer and the taxpayer’s*
14 *spouse file a joint return for the taxable year.*

15 “(3) *MARITAL STATUS.*—*Marital status shall be*
16 *determined in accordance with section 7703.”.*

17 “(b) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*
18 *PAYER ITEMIZES OTHER DEDUCTIONS.*—*Subsection (a) of*
19 *section 62 is amended by inserting after paragraph (15)*
20 *the following new paragraph:*

21 “(16) *INTEREST ON EDUCATION LOANS.*—*The de-*
22 *duction allowed by section 220.”*

23 “(c) *REPORTING REQUIREMENT.*—

24 “(1) *IN GENERAL.*—*Subpart B of part III of sub-*
25 *chapter A of chapter 61 (relating to information con-*

1 cerning transactions with other persons) is amended
2 by inserting after section 6050P the following new
3 section:

4 **“SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN IN-**
5 **TEREST RECEIVED IN TRADE OR BUSINESS**
6 **FROM INDIVIDUALS.**

7 “(a) *EDUCATION LOAN INTEREST OF \$600 OR*
8 *MORE.—Any person—*

9 “(1) *who is engaged in a trade or business, and*

10 “(2) *who, in the course of such trade or business,*
11 *receives from any individual interest aggregating*
12 *\$600 or more for any calendar year on 1 or more*
13 *qualified education loans,*

14 *shall make the return described in subsection (b) with re-*
15 *spect to each individual from whom such interest was re-*
16 *ceived at such time as the Secretary may by regulations*
17 *prescribe.*

18 “(b) *FORM AND MANNER OF RETURNS.—A return is*
19 *described in this subsection if such return—*

20 “(1) *is in such form as the Secretary may pre-*
21 *scribe,*

22 “(2) *contains—*

23 “(A) *the name, address, and TIN of the in-*
24 *dividual from whom the interest described in*
25 *subsection (a)(2) was received,*

1 “(B) *the amount of such interest received*
2 *for the calendar year, and*

3 “(C) *such other information as the Sec-*
4 *retary may prescribe.*

5 “(c) *APPLICATION TO GOVERNMENTAL UNITS.—For*
6 *purposes of subsection (a)—*

7 “(1) *TREATED AS PERSONS.—The term ‘person’*
8 *includes any governmental unit (and any agency or*
9 *instrumentality thereof).*

10 “(2) *SPECIAL RULES.—In the case of a govern-*
11 *mental unit or any agency or instrumentality there-*
12 *of—*

13 “(A) *subsection (a) shall be applied without*
14 *regard to the trade or business requirement con-*
15 *tained therein, and*

16 “(B) *any return required under subsection*
17 *(a) shall be made by the officer or employee ap-*
18 *propriately designated for the purpose of making*
19 *such return.*

20 “(d) *STATEMENTS TO BE FURNISHED TO INDIVID-*
21 *UALS WITH RESPECT TO WHOM INFORMATION IS RE-*
22 *QUIRED.—Every person required to make a return under*
23 *subsection (a) shall furnish to each individual whose name*
24 *is required to be set forth in such return a written statement*
25 *showing—*

1 “(1) the name and address of the person required
2 to make such return, and

3 “(2) the aggregate amount of interest described
4 in subsection (a)(2) received by the person required to
5 make such return from the individual to whom the
6 statement is required to be furnished.

7 The written statement required under the preceding sen-
8 tence shall be furnished on or before January 31 of the year
9 following the calendar year for which the return under sub-
10 section (a) was required to be made.

11 “(e) *QUALIFIED EDUCATION LOAN DEFINED.*—For
12 purposes of this section, except as provided in regulations
13 prescribed by the Secretary, the term ‘qualified education
14 loan’ has the meaning given such term by section 220(e)(1).

15 “(f) *RETURNS WHICH WOULD BE REQUIRED TO BE*
16 *MADE BY 2 OR MORE PERSONS.*—Except to the extent pro-
17 vided in regulations prescribed by the Secretary, in the case
18 of interest received by any person on behalf of another per-
19 son, only the person first receiving such interest shall be
20 required to make the return under subsection (a).”.

21 (2) *ASSESSABLE PENALTIES.*—Section 6724(d)
22 (relating to definitions) is amended—

23 (A) by redesignating clauses (ix) through
24 (xiv) as clauses (x) through (xv), respectively, in
25 paragraph (1)(B) and by inserting after clause

1 (viii) of such paragraph the following new
2 clause:

3 “(ix) section 6050Q (relating to re-
4 turns relating to education loan interest re-
5 ceived in trade or business from individ-
6 uals),”, and

7 (B) by redesignating subparagraphs (Q)
8 through (T) as subparagraphs (R) through (U),
9 respectively, in paragraph (2) and by inserting
10 after subparagraph (P) of such paragraph the
11 following new subparagraph:

12 “(Q) section 6050Q (relating to returns re-
13 lating to education loan interest received in
14 trade or business from individuals),”.

15 (d) *CLERICAL AMENDMENT.*—The table of sections for
16 part VII of subchapter B of chapter 1 is amended by strik-
17 ing the last item and inserting the following new items:

 “Sec. 220. Interest on education loans.

 “Sec. 221. Cross reference.”.

18 (e) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to any qualified education loan (as de-
20 fined in section 220(e)(1) of the Internal Revenue Code of
21 1986, as added by this section) incurred on, before, or after
22 the date of the enactment of this Act, but only with respect
23 to any loan interest payment due after December 31, 1995.

1 **SEC. 11005. DEDUCTION FOR TAXPAYERS WITH CERTAIN**
2 **PERSONS REQUIRING CUSTODIAL CARE IN**
3 **THEIR HOUSEHOLDS.**

4 (a) *IN GENERAL.*—Part VII of subchapter B of chapter
5 1 is amended by redesignating section 221 as section 222
6 and by inserting after section 220 the following new section:

7 **“SEC. 221. TAXPAYERS WITH CERTAIN PERSONS REQUIRING**
8 **CUSTODIAL CARE IN THEIR HOUSEHOLDS.**

9 “(a) *ALLOWANCE OF DEDUCTION.*—In the case of an
10 individual who maintains a household which includes as
11 a member one or more qualified persons, there shall be al-
12 lowed as a deduction for the taxable year an amount equal
13 to \$1,000 for each such person.

14 “(b) *QUALIFIED PERSON.*—For purposes of this sec-
15 tion, the term ‘qualified person’ means any individual—

16 “(1) who is a father or mother of the taxpayer,
17 his spouse, or his former spouse or who is an ancestor
18 of such a father or mother,

19 “(2) who is physically or mentally incapable of
20 caring for himself,

21 “(3) who has as his principal place of abode for
22 more than half of the taxable year the home of the
23 taxpayer,

24 “(4) over half of whose support, for the calendar
25 year in which the taxable year of the taxpayer begins,
26 was received from the taxpayer, and

1 “(5) whose name and TIN are included on the
2 taxpayer’s return for the taxable year.

3 For purposes of paragraph (1), a stepfather or stepmother
4 shall be treated as a father or mother.

5 “(c) *SPECIAL RULES.*—For purposes of this section,
6 rules similar to the rules of paragraphs (1), (2), (3), and
7 (4) of section 21(e) shall apply.”

8 (b) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*
9 *PAYER ITEMIZES OTHER DEDUCTIONS.*—Subsection (a) of
10 section 62 is amended by inserting after paragraph (16)
11 the following new paragraph:

12 “(17) *TAXPAYERS WITH CERTAIN PERSONS RE-*
13 *QUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.*—
14 The deduction allowed by section 221.”

15 (c) *CLERICAL AMENDMENT.*—The table of sections for
16 part VII of subchapter B of chapter 1 is amended by strik-
17 ing the last item and inserting the following new items:

 “Sec. 221. Taxpayers with certain persons requiring custodial care
 in their households.

 “Sec. 222. Cross reference.”

18 (d) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to taxable years beginning after Decem-
20 ber 31, 1995.

1 ***Subtitle B—Savings and Investment***
 2 ***Incentives***

3 ***CHAPTER 1—RETIREMENT SAVINGS***
 4 ***INCENTIVES***

5 ***Subchapter A—Individual Retirement Plans***

6 ***PART I—RESTORATION OF IRA DEDUCTION***

7 ***SEC. 11011. RESTORATION OF IRA DEDUCTION.***

8 *(a) INCREASE IN INCOME LIMITS FOR ACTIVE PAR-*
 9 *TICIPANTS.—*

10 *(1) IN GENERAL.—Subparagraph (B) of section*
 11 *219(g)(3) (relating to applicable dollar amount) is*
 12 *amended to read as follows:*

13 *“(B) APPLICABLE DOLLAR AMOUNT.—The*
 14 *term ‘applicable dollar amount’ means the fol-*
 15 *lowing:*

16 *“(i) In the case of a taxpayer filing a*
 17 *joint return:*

<i>“For taxable years beginning in:</i>	<i>The applicable dollar amount is:</i>
1996	\$45,000
1997	\$50,000
1998	\$55,000
1999	\$60,000
2000	\$65,000
2001	\$70,000
2002	\$75,000
2003	\$80,000
2004	\$85,000
2005	\$90,000
2006	\$95,000
2007 and thereafter	\$100,000.

1 “(ii) In the case of any other taxpayer
 2 (other than a married individual filing a
 3 separate return):

“For taxable years beginning in:	The applicable dollar amount is:
1996	\$30,000
1997	\$35,000
1998	\$40,000
1999	\$45,000
2000	\$50,000
2001	\$55,000
2002	\$60,000
2003	\$65,000
2004	\$70,000
2005	\$75,000
2006	\$80,000
2007 and thereafter	\$85,000.

4 “(iii) In the case of a married individ-
 5 ual filing a separate return, zero.”

6 (2) INCREASE IN PHASEOUT RANGE FOR JOINT
 7 RETURNS.—

8 (A) IN GENERAL.—Clause (ii) of section
 9 219(g)(2)(A) is amended by inserting “(the
 10 phaseout amount in the case of a joint return)”
 11 after “\$10,000”.

12 (B) PHASEOUT AMOUNT.—Paragraph (3) of
 13 section 219(g) is amended—

14 (i) by adding at the end the following
 15 new subparagraph:

16 “(C) PHASEOUT AMOUNT.—The phaseout
 17 amount is:

“For taxable years beginning in:	The applicable dollar amount is:
1996	\$12,500
1997	\$15,000

“For taxable years beginning in:	The applicable dollar amount is:
1998	\$17,500
1999 and thereafter	\$20,000.”,

1 *and*

2 *(ii) by inserting “; PHASEOUT*
3 *AMOUNT” after “AMOUNT” in the heading.*

4 *(3) COST-OF-LIVING ADJUSTMENTS.—Section*
5 *219(h), as added by section 11012(a), is amended—*

6 *(A) by adding at the end the following new*
7 *paragraph:*

8 *“(2) PHASE-OUT RANGES.—In the case of any*
9 *taxable year beginning in a calendar year after 2007,*
10 *the \$100,000 and \$85,000 amounts in clauses (i) and*
11 *(ii) of subsection (g)(3)(B) shall each be increased by*
12 *an amount equal to the product of such dollar*
13 *amount and the cost-of-living adjustment determined*
14 *under section 1(f)(3) for the calendar year, except*
15 *that subparagraph (B) thereof shall be applied by*
16 *substituting ‘2006’ for ‘1992’. If any amount to which*
17 *either such amount is increased is not a multiple of*
18 *\$1,000, such amount shall be rounded to the next*
19 *lower multiple of \$1,000.”, and*

20 *(B) by striking “In the case” and inserting:*

21 *“(1) DEDUCTIBLE AMOUNT.—In the case”.*

22 *(b) INDIVIDUAL NOT DISQUALIFIED BY SPOUSE’S PAR-*
23 *TICIPATION.—Paragraph (1) of section 219(g) (relating to*

1 *limitation on deduction for active participants in certain*
2 *pension plans) is amended by striking “or the individual’s*
3 *spouse”.*

4 *(c) REPORTING REQUIREMENTS.—Section 408(i) is*
5 *amended by striking “under regulations” and “in such reg-*
6 *ulations” each place such terms appear.*

7 *(d) EFFECTIVE DATE.—The amendments made by this*
8 *section shall apply to taxable years beginning after Decem-*
9 *ber 31, 1995.*

10 **SEC. 11012. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
11 **AMOUNT.**

12 *(a) IN GENERAL.—Section 219 is amended by redesign-*
13 *ating subsection (h) as subsection (i) and by inserting*
14 *after subsection (g) the following new subsection:*

15 *“(h) COST-OF-LIVING ADJUSTMENTS.—In the case of*
16 *any taxable year beginning in a calendar year after 1996,*
17 *the \$2,000 amount under subsection (b)(1)(A) shall be in-*
18 *creased by an amount equal to the product of \$2,000 and*
19 *the cost-of-living adjustment determined under section*
20 *1(f)(3) for the calendar year in which the taxable year be-*
21 *gins, except that subparagraph (B) thereof shall be applied*
22 *by substituting ‘1995’ for ‘1992’. If the amount to which*
23 *\$2,000 would be increased under the preceding sentence is*
24 *not a multiple of \$500, such amount shall be rounded to*
25 *the next lower multiple of \$500.”*

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *Section 408(a)(1) is amended by striking “in*
3 *excess of \$2,000 on behalf of any individual” and in-*
4 *serting “on behalf of any individual in excess of the*
5 *amount in effect for such taxable year under section*
6 *219(b)(1)(A)”.*

7 (2) *Section 408(b)(2)(B) is amended by striking*
8 *“\$2,000” and inserting “the dollar amount in effect*
9 *under section 219(b)(1)(A)”.*

10 (3) *Section 408(j) is amended by striking*
11 *“\$2,000”.*

12 ***SEC. 11013. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUC-***
13 ***TION.***

14 (a) *SPOUSAL IRA COMPUTED ON BASIS OF COM-*
15 *PENSATION OF BOTH SPOUSES.*—*Subsection (c) of section*
16 *219 (relating to special rules for certain married individ-*
17 *uals) is amended to read as follows:*

18 “(c) *SPECIAL RULES FOR CERTAIN MARRIED INDIVID-*
19 *UALS.*—

20 “(1) *IN GENERAL.*—*In the case of an individual*
21 *to whom this paragraph applies for the taxable year,*
22 *the limitation of paragraph (1) of subsection (b) shall*
23 *be equal to the lesser of—*

24 “(A) *the dollar amount in effect under sub-*
25 *section (b)(1)(A) for the taxable year, or*

1 “(B) the sum of—

2 “(i) the compensation includible in
3 such individual’s gross income for the tax-
4 able year, plus

5 “(ii) the compensation includible in
6 the gross income of such individual’s spouse
7 for the taxable year reduced by—

8 “(I) the amount allowed as a de-
9 duction under subsection (a) to such
10 spouse for such taxable year, and

11 “(II) the amount of any contribu-
12 tion on behalf of such spouse to an AD
13 IRA under section 408A for such tax-
14 able year.

15 “(2) INDIVIDUALS TO WHOM PARAGRAPH (1) AP-
16 PLIES.—Paragraph (1) shall apply to any individual
17 if—

18 “(A) such individual files a joint return for
19 the taxable year, and

20 “(B) the amount of compensation (if any)
21 includible in such individual’s gross income for
22 the taxable year is less than the compensation
23 includible in the gross income of such individ-
24 ual’s spouse for the taxable year.”

25 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (2) of section 219(f) (relating to
2 other definitions and special rules) is amended by
3 striking “subsections (b) and (c)” and inserting “sub-
4 section (b)”.

5 (2) Section 408(d)(5) is amended by striking
6 “\$2,250” and inserting “the dollar amount in effect
7 under section 219(b)(1)(A)”.

8 (3) Section 219(g)(1) is amended by striking
9 “(c)(2)” and inserting “(c)(1)(A)”.

10 (c) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to taxable years beginning after Decem-
12 ber 31, 1995.

13 **PART II—NONDEDUCTIBLE TAX-FREE IRAS**

14 **SEC. 11015. ESTABLISHMENT OF AMERICAN DREAM IRA.**

15 (a) *IN GENERAL.*—Subpart A of part I of subchapter
16 D of chapter 1 (relating to pension, profit-sharing, stock
17 bonus plans, etc.) is amended by inserting after section 408
18 the following new section:

19 **“SEC. 408A. AMERICAN DREAM IRA.**

20 “(a) *GENERAL RULE.*—Except as provided in this sec-
21 tion, an American Dream IRA shall be treated for purposes
22 of this title in the same manner as an individual retirement
23 plan.

24 “(b) *AMERICAN DREAM IRA.*—For purposes of this
25 title, the term ‘American Dream IRA’ or ‘AD IRA’ means

1 *an individual retirement plan (as defined in section*
2 *7701(a)(37)) which is designated at the time of the estab-*
3 *lishment of the plan as an American Dream IRA. Such*
4 *designation shall be made in such manner as the Secretary*
5 *may prescribe.*

6 “(c) *TREATMENT OF CONTRIBUTIONS.—*

7 “(1) *NO DEDUCTION ALLOWED.—No deduction*
8 *shall be allowed under section 219 for a contribution*
9 *to an AD IRA.*

10 “(2) *CONTRIBUTION LIMIT.—The aggregate*
11 *amount of contributions for any taxable year to all*
12 *AD IRAs maintained for the benefit of an individual*
13 *shall not exceed the excess (if any) of—*

14 “(A) *the maximum amount allowable as a*
15 *deduction under section 219 with respect to such*
16 *individual for such taxable year (computed with-*
17 *out regard to subsection (g) of such section), over*

18 “(B) *the amount so allowed.*

19 “(3) *CONTRIBUTIONS PERMITTED AFTER AGE*
20 *70¹/₂.—Contributions to an AD IRA may be made*
21 *even after the individual for whom the account is*
22 *maintained has attained age 70¹/₂.*

23 “(4) *MANDATORY DISTRIBUTION RULES NOT TO*
24 *APPLY, ETC.—*

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), subsections (a)(6) and (b)(3)*
3 *of section 408 (relating to required distributions)*
4 *and section 4974 (relating to excise tax on cer-*
5 *tain accumulations in qualified retirement*
6 *plans) shall not apply to any AD IRA.*

7 “(B) *POST-DEATH DISTRIBUTIONS.*—*Rules*
8 *similar to the rules of section 401(a)(9) (other*
9 *than subparagraph (A) thereof) shall apply for*
10 *purposes of this section.*

11 “(5) *RULES RELATING TO ROLLOVER CONTRIBU-*
12 *TIONS.*—

13 “(A) *IN GENERAL.*—*No rollover contribu-*
14 *tion may be made to an AD IRA unless it is a*
15 *qualified rollover contribution.*

16 “(B) *COORDINATION WITH LIMIT.*—*A quali-*
17 *fied rollover contribution shall not be taken into*
18 *account for purposes of paragraph (2).*

19 “(6) *TIME WHEN CONTRIBUTIONS MADE.*—*For*
20 *purposes of this section, the rule of section 219(f)(3)*
21 *shall apply.*

22 “(d) *DISTRIBUTION RULES.*—*For purposes of this*
23 *title—*

24 “(1) *GENERAL RULES.*—

1 “(A) *EXCLUSIONS FROM GROSS INCOME.*—
2 *Any qualified distribution from an AD IRA*
3 *shall not be includible in gross income.*

4 “(B) *NONQUALIFIED DISTRIBUTIONS.*—*In*
5 *applying section 72 to any distribution from an*
6 *AD IRA which is not a qualified distribution,*
7 *such distribution shall be treated as made from*
8 *contributions to the AD IRA to the extent that*
9 *such distribution, when added to all previous*
10 *distributions from the AD IRA, does not exceed*
11 *the aggregate amount of contributions to the AD*
12 *IRA. For purposes of the preceding sentence, all*
13 *AD IRAs maintained for the benefit of an indi-*
14 *vidual shall be treated as 1 account.*

15 “(C) *EXCEPTION FROM PENALTY TAX.*—*Sec-*
16 *tion 72(t) shall not apply to—*

17 “(i) *any qualified distribution from an*
18 *AD IRA, and*

19 “(ii) *any qualified special purpose dis-*
20 *tribution (whether or not a qualified dis-*
21 *tribution) from an AD IRA.*

22 “(2) *QUALIFIED DISTRIBUTION.*—*For purposes*
23 *of this subsection—*

24 “(A) *IN GENERAL.*—*The term ‘qualified dis-*
25 *tribution’ means any payment or distribution—*

1 “(i) made on or after the date on
2 which the individual attains age 59^{1/2},

3 “(ii) made to a beneficiary (or to the
4 estate of the individual) on or after the
5 death of the individual,

6 “(iii) attributable to the individual’s
7 being disabled (within the meaning of sec-
8 tion 72(m)(7)), or

9 “(iv) which is a qualified special pur-
10 pose distribution.

11 “(B) *DISTRIBUTIONS WITHIN 5 YEARS.*—No
12 payment or distribution shall be treated as a
13 qualified distribution if—

14 “(i) it is made within the 5-taxable
15 year period beginning with the 1st taxable
16 year for which the individual made a con-
17 tribution to an AD IRA (or such individ-
18 ual’s spouse made a contribution to an AD
19 IRA) established for such individual, or

20 “(ii) in the case of a payment or dis-
21 tribution properly allocable (as determined
22 in the manner prescribed by the Secretary)
23 to a qualified rollover contribution (or in-
24 come allocable thereto), it is made within
25 the 5-taxable year period beginning with the

1 *taxable year in which the rollover contribu-*
2 *tion was made.*

3 *Clause (ii) shall not apply to a qualified rollover*
4 *contribution from an AD IRA.*

5 “(3) *ROLLOVERS.*—

6 “(A) *IN GENERAL.*—*Paragraph (1) shall*
7 *not apply to any distribution which is trans-*
8 *ferred in a qualified rollover contribution to an*
9 *AD IRA.*

10 “(B) *INCOME INCLUSION FOR ROLLOVERS*
11 *FROM NON-AD IRAS.*—*In the case of any quali-*
12 *fied rollover contribution from an individual re-*
13 *irement plan (other than an AD IRA) to an AD*
14 *IRA established for the benefit of the payee or*
15 *distributee, as the case may be—*

16 “(i) *sections 72(t) and 408(d)(3) shall*
17 *not apply, and*

18 “(ii) *in any case where such contribu-*
19 *tion is made before January 1, 1998, any*
20 *amount required to be included in gross in-*
21 *come by reason of this paragraph shall be*
22 *so included ratably over the 4-taxable year*
23 *period beginning with the taxable year in*
24 *which the payment or distribution is made.*

1 “(C) *ADDITIONAL REPORTING REQUIRE-*
2 *MENTS.—The Secretary shall require that trust-*
3 *ees of AD IRAs, trustees of individual retirement*
4 *plans, or both, whichever is appropriate, shall*
5 *include such additional information in reports*
6 *required under section 408(i) as is necessary to*
7 *ensure that amounts required to be included in*
8 *gross income under subparagraph (B) are so in-*
9 *cluded.*

10 “(4) *QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term ‘quali-*
11 *fied special purpose distribution’ means any distribu-*
12 *tion to which subparagraph (B), (D), or (E) of sec-*
13 *tion 72(t)(2) applies.*

15 “(e) *QUALIFIED ROLLOVER CONTRIBUTION.—For pur-*
16 *poses of this section—*

17 “(1) *IN GENERAL.—The term ‘qualified rollover*
18 *contribution’ means a rollover contribution to an AD*
19 *IRA from another such account, or from an individ-*
20 *ual retirement plan, but only if such rollover con-*
21 *tribution meets the requirements of section 408(d)(3).*
22 *For purposes of section 408(d)(3)(B), there shall be*
23 *disregarded any qualified rollover contribution from*
24 *an individual retirement plan to an AD IRA.*

1 “(2) *CONVERSIONS.*—*The conversion of an indi-*
2 *vidual retirement plan to an AD IRA shall be treated*
3 *as if it were a qualified rollover contribution.*”

4 **(b) *REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.***—

5 (1) *Subsection (f) of section 219 is amended by*
6 *striking paragraph (7).*

7 (2) *Paragraph (5) of section 408(d) is amended*
8 *by striking the last sentence.*

9 (3) *Section 408(o) is amended by adding at the*
10 *end the following new paragraph:*

11 “(5) *TERMINATION.*—*This subsection shall not*
12 *apply to any designated nondeductible contribution*
13 *for any taxable year beginning after December 31,*
14 *1995.*”

15 (4) *Subsection (b) of section 4973 is amended by*
16 *striking the last sentence.*

17 **(c) *EXCESS DISTRIBUTIONS TAX NOT TO APPLY.***—

18 *Subparagraph (B) of section 4980A(e)(1) is amended by in-*
19 *serting “other than an AD IRA (as defined in section*
20 *408A(b))” after “retirement plan”.*

21 **(d) *EXCESS CONTRIBUTIONS.***—*Section 4973(b) is*
22 *amended to read as follows:*

23 “(b) *EXCESS CONTRIBUTIONS.*—*For purposes of this*
24 *section—*

1 “(1) *IN GENERAL.*—*In the case of individual re-*
2 *irement accounts or individual retirement annuities,*
3 *the term ‘excess contributions’ means the sum of—*

4 “(A) *the amount determined under para-*
5 *graph (2) for the taxable year, plus*

6 “(B) *the carryover amount determined*
7 *under paragraph (3) for the taxable year.*

8 “(2) *CURRENT YEAR.*—*The amount determined*
9 *under this paragraph for any taxable year is an*
10 *amount equal to the sum of—*

11 “(A) *the excess (if any) of—*

12 “(i) *the amount contributed for the*
13 *taxable year to the accounts or for the an-*
14 *nuities or bonds (other than AD IRAs), over*

15 “(ii) *the amount allowable as a deduc-*
16 *tion under section 219 for the taxable year,*
17 *plus*

18 “(B) *the excess (if any) of—*

19 “(i) *the amount described in clause (i)*
20 *(taking into account contributions to AD*
21 *IRAs) contributed for the taxable year, over*

22 “(ii) *the amount allowable as a deduc-*
23 *tion under section 219 for the taxable year*
24 *(computed without regard to section*
25 *219(g)).*

1 “(3) *CARRYOVER AMOUNT.*—*The carryover*
2 *amount determined under this paragraph for any*
3 *taxable year is the amount determined under para-*
4 *graph (2) for the preceding taxable year, reduced by*
5 *the sum of—*

6 “(A) *the distributions out of the account for*
7 *the taxable year which were included in the gross*
8 *income of the payee under section 408(d)(1),*

9 “(B) *the distributions out of the account for*
10 *the taxable year to which section 408(d)(5) ap-*
11 *plies, and*

12 “(C) *the excess (if any) of the amount deter-*
13 *mined under paragraph (2)(B)(ii) over the*
14 *amount determined under paragraph (2)(B)(i).*

15 “(4) *SPECIAL RULES.*—*For purposes of this sub-*
16 *section—*

17 “(A) *ROLLOVER CONTRIBUTIONS.*—*Rollover*
18 *distributions described in sections 402(c),*
19 *403(a)(4), 403(b)(8), 408(d)(3), and 408A(e)*
20 *shall not be taken into account.*

21 “(B) *CONTRIBUTIONS RETURNED BEFORE*
22 *DUE DATE.*—*Any contribution which is distrib-*
23 *uted from an individual retirement plan in a*
24 *distribution to which section 408(d)(4) applies*
25 *shall not be taken into account.*

1 “(C) *EXCESS CONTRIBUTIONS TREATED AS*
 2 *CONTRIBUTIONS.—In applying paragraph*
 3 *(3)(C), the determination as to amounts contrib-*
 4 *uted for a taxable year shall be made without re-*
 5 *gard to section 219(f)(6).”*

6 (e) *CLERICAL AMENDMENT.—The table of sections for*
 7 *subpart A of part I of subchapter D of chapter 1 is amended*
 8 *by inserting after the item relating to section 408 the follow-*
 9 *ing new item:*

“Sec. 408A. American Dream IRA.”

10 (f) *EFFECTIVE DATE.—The amendments made by this*
 11 *section shall apply to taxable years beginning after Decem-*
 12 *ber 31, 1995.*

13 ***Subchapter B—Penalty-Free Distributions***

14 ***SEC. 11016. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE***
 15 ***USED WITHOUT PENALTY TO PURCHASE***
 16 ***FIRST HOMES OR TO PAY HIGHER EDU-***
 17 ***CATION OR FINANCIALLY DEVASTATING MED-***
 18 ***ICAL EXPENSES.***

19 (a) *IN GENERAL.—Paragraph (2) of section 72(t) (re-*
 20 *lating to exceptions to 10-percent additional tax on early*
 21 *distributions from qualified retirement plans) is amended*
 22 *by adding at the end the following new subparagraph:*

23 “(D) *DISTRIBUTIONS FROM INDIVIDUAL RETIRE-*
 24 *MENT PLANS FOR FIRST-TIME HOMEBUYERS OR EDU-*

1 *CATIONAL EXPENSES.—Distributions to an individual*
2 *from an individual retirement plan—*

3 *“(i) which are qualified first-time home-*
4 *buyer distributions (as defined in paragraph*
5 *(6)), or*

6 *“(ii) to the extent such distributions do not*
7 *exceed the qualified higher education expenses (as*
8 *defined in paragraph (7)) of the taxpayer for the*
9 *taxable year.*

10 *(b) FINANCIALLY DEVASTATING MEDICAL EX-*
11 *PENSES.—*

12 *(1) IN GENERAL.—Section 72(t)(3)(A) is amend-*
13 *ed by striking “(B).”*

14 *(2) CERTAIN LINEAL DESCENDANTS AND ANCES-*
15 *TORS TREATED AS DEPENDENTS.—Subparagraph (B)*
16 *of section 72(t)(2) is amended by striking “medical*
17 *care” and all that follows and inserting “medical care*
18 *determined—*

19 *“(i) without regard to whether the em-*
20 *ployee itemizes deductions for such taxable*
21 *year, and*

22 *“(ii) in the case of an individual re-*
23 *tirement plan, by treating such employee’s*
24 *dependents as including—*

1 “(I) all children and grand-
2 children of the employee or such em-
3 ployee’s spouse, and

4 “(II) all ancestors of the employee
5 or such employee’s spouse.”

6 (3) *CONFORMING AMENDMENT.*—Subparagraph
7 (B) of section 72(t)(2) is amended by striking “or
8 (C)” and inserting “, (C), (D), or (E)”.

9 (c) *DEFINITIONS.*—Section 72(t) is amended by add-
10 ing at the end the following new paragraphs:

11 “(6) *QUALIFIED FIRST-TIME HOMEBUYER DIS-*
12 *TRIBUTIONS.*—For purposes of paragraph (2)(D)(i)—

13 “(A) *IN GENERAL.*—The term ‘qualified
14 first-time homebuyer distribution’ means any
15 payment or distribution received by an individ-
16 ual to the extent such payment or distribution is
17 used by the individual before the close of the 60th
18 day after the day on which such payment or dis-
19 tribution is received to pay qualified acquisition
20 costs with respect to a principal residence of a
21 first-time homebuyer who is such individual, the
22 spouse of such individual, or any child, grand-
23 child, or ancestor of such individual or the indi-
24 vidual’s spouse.

1 “(B) *LIFETIME DOLLAR LIMITATION.*—*The*
2 *aggregate amount of payments or distributions*
3 *received by an individual which may be treated*
4 *as qualified first-time homebuyer distributions*
5 *for any taxable year shall not exceed the excess*
6 *(if any) of—*

7 “(i) \$10,000, over

8 “(ii) *the aggregate amounts treated as*
9 *qualified first-time homebuyer distributions*
10 *with respect to such individual for all prior*
11 *taxable years.*

12 “(C) *QUALIFIED ACQUISITION COSTS.*—*For*
13 *purposes of this paragraph, the term ‘qualified*
14 *acquisition costs’ means the costs of acquiring,*
15 *constructing, or reconstructing a residence. Such*
16 *term includes any usual or reasonable settlement,*
17 *financing, or other closing costs.*

18 “(D) *FIRST-TIME HOMEBUYER; OTHER*
19 *DEFINITIONS.*—*For purposes of this para-*
20 *graph—*

21 “(i) *FIRST-TIME HOMEBUYER.*—*The*
22 *term ‘first-time homebuyer’ means any in-*
23 *dividual if—*

24 “(I) *such individual (and if mar-*
25 *ried, such individual’s spouse) had no*

1 *present ownership interest in a prin-*
2 *cipal residence during the 2-year pe-*
3 *riod ending on the date of acquisition*
4 *of the principal residence to which this*
5 *paragraph applies, and*

6 *“(II) subsection (h) or (k) of sec-*
7 *tion 1034 did not suspend the running*
8 *of any period of time specified in sec-*
9 *tion 1034 with respect to such individ-*
10 *ual on the day before the date the dis-*
11 *tribution is applied pursuant to sub-*
12 *paragraph (A).*

13 *“(ii) PRINCIPAL RESIDENCE.—The*
14 *term ‘principal residence’ has the same*
15 *meaning as when used in section 1034.*

16 *“(iii) DATE OF ACQUISITION.—The*
17 *term ‘date of acquisition’ means the date—*

18 *“(I) on which a binding contract*
19 *to acquire the principal residence to*
20 *which subparagraph (A) applies is en-*
21 *tered into, or*

22 *“(II) on which construction or re-*
23 *construction of such a principal resi-*
24 *dence is commenced.*

1 “(E) *SPECIAL RULE WHERE DELAY IN AC-*
2 *QUISITION.—If any distribution from any indi-*
3 *vidual retirement plan fails to meet the require-*
4 *ments of subparagraph (A) solely by reason of a*
5 *delay or cancellation of the purchase or construc-*
6 *tion of the residence, the amount of the distribu-*
7 *tion may be contributed to an individual retire-*
8 *ment plan as provided in section 408(d)(3)(A)(i)*
9 *(determined by substituting ‘120 days’ for ‘60*
10 *days’ in such section), except that—*

11 “(i) *section 408(d)(3)(B) shall not be*
12 *applied to such contribution, and*

13 “(ii) *such amount shall not be taken*
14 *into account in determining whether section*
15 *408(d)(3)(A)(i) applies to any other*
16 *amount.*

17 “(7) *QUALIFIED HIGHER EDUCATION EX-*
18 *PENSES.—For purposes of paragraph (2)(D)(ii)—*

19 “(A) *IN GENERAL.—The term ‘qualified*
20 *higher education expenses’ means tuition, fees,*
21 *books, supplies, and equipment required for the*
22 *enrollment or attendance of—*

23 “(i) *the taxpayer,*

24 “(ii) *the taxpayer’s spouse, or*

1 “(iii) any child (as defined in section
2 151(c)(3)), grandchild, or ancestor of the
3 taxpayer or the taxpayer’s spouse,
4 at an eligible educational institution (as defined
5 in section 135(c)(3)).

6 “(B) COORDINATION WITH SAVINGS BOND
7 PROVISIONS.—The amount of qualified higher
8 education expenses for any taxable year shall be
9 reduced by any amount excludable from gross in-
10 come under section 135.”

11 (d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UN-
12 EMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t)
13 is amended by adding at the end the following new subpara-
14 graph:

15 “(E) DISTRIBUTIONS TO UNEMPLOYED INDI-
16 VIDUALS.—A distribution from an individual re-
17 tirement plan to an individual after separation
18 from employment, if—

19 “(i) such individual has received un-
20 employment compensation for 12 consecu-
21 tive weeks under any Federal or State un-
22 employment compensation law by reason of
23 such separation, and

24 “(ii) such distributions are made dur-
25 ing any taxable year during which such un-

1 “(B) with respect to which the only con-
2 tributions allowed are contributions under a
3 qualified salary reduction arrangement.

4 “(2) QUALIFIED SALARY REDUCTION ARRANGE-
5 MENT.—

6 “(A) IN GENERAL.—For purposes of this
7 subsection, the term ‘qualified salary reduction
8 arrangement’ means a written arrangement of
9 an eligible employer under which—

10 “(i) an employee eligible to participate
11 in the arrangement may elect to have the
12 employer make payments—

13 “(I) as elective employer contribu-
14 tions to a simple retirement account on
15 behalf of the employee, or

16 “(II) to the employee directly in
17 cash,

18 “(ii) the amount which an employee
19 may elect under clause (i) for any year is
20 required to be expressed as a percentage of
21 compensation and may not exceed a total of
22 \$6,000 for any year,

23 “(iii) the employer is required to make
24 a matching contribution to the simple re-
25 tirement account for any year in an

1 *amount equal to so much of the amount the*
2 *employee elects under clause (i)(I) as does*
3 *not exceed the applicable percentage of com-*
4 *ensation for the year, and*

5 *“(iv) no contributions may be made*
6 *other than contributions described in clause*
7 *(i) or (iii).*

8 *“(B) DEFINITIONS.—For purposes of this*
9 *subsection—*

10 *“(i) ELIGIBLE EMPLOYER.—The term*
11 *‘eligible employer’ means an employer who*
12 *employs 100 or fewer employees on any day*
13 *during the year.*

14 *“(ii) APPLICABLE PERCENTAGE.—*

15 *“(I) IN GENERAL.—The term ‘ap-*
16 *plicable percentage’ means 3 percent.*

17 *“(II) ELECTION OF LOWER PER-*
18 *CENTAGE.—An employer may elect to*
19 *apply a lower percentage (not less than*
20 *1 percent) for any year for all employ-*
21 *ees eligible to participate in the plan*
22 *for such year if the employer notifies*
23 *the employees of such lower percentage*
24 *within a reasonable period of time be-*
25 *fore the 60-day election period for such*

1 year under paragraph (5)(C). An em-
2 ployer may not elect a lower percent-
3 age under this subclause for any year
4 if that election would result in the ap-
5 plicable percentage being lower than 3
6 percent in more than 2 of the years in
7 the 5-year period ending with such
8 year.

9 “(III) SPECIAL RULE FOR YEARS
10 ARRANGEMENT NOT IN EFFECT.—If
11 any year in the 5-year period de-
12 scribed in subclause (II) is a year
13 prior to the first year for which any
14 qualified salary reduction arrangement
15 is in effect with respect to the employer
16 (or any predecessor), the employer
17 shall be treated as if the level of the
18 employer matching contribution was at
19 3 percent of compensation for such
20 prior year.

21 “(C) ARRANGEMENT MAY BE ONLY PLAN OF
22 EMPLOYER.—

23 “(i) IN GENERAL.—An arrangement
24 shall not be treated as a qualified salary re-
25 duction arrangement for any year if the

1 *employer (or any predecessor employer)*
2 *maintained a qualified plan with respect to*
3 *which contributions were made, or benefits*
4 *were accrued, for service in any year in the*
5 *period beginning with the year such ar-*
6 *rangement became effective and ending with*
7 *the year for which the determination is*
8 *being made.*

9 *“(ii) QUALIFIED PLAN.—For purposes*
10 *of this subparagraph, the term ‘qualified*
11 *plan’ means a plan, contract, pension, or*
12 *trust described in subparagraph (A) or (B)*
13 *of section 219(g)(5).*

14 *“(D) COST-OF-LIVING ADJUSTMENT.—The*
15 *Secretary shall adjust the \$6,000 amount under*
16 *subparagraph (A)(ii) at the same time and in*
17 *the same manner as under section 415(d), except*
18 *that the base period taken into account shall be*
19 *the calendar quarter ending September 30, 1995,*
20 *and any increase under this subparagraph which*
21 *is not a multiple of \$500 shall be rounded to the*
22 *next lower multiple of \$500.*

23 *“(3) VESTING REQUIREMENTS.—The require-*
24 *ments of this paragraph are met with respect to a*
25 *simple retirement account if the employee’s rights to*

1 *any contribution to the simple retirement account are*
2 *nonforfeitable. For purposes of this paragraph, rules*
3 *similar to the rules of subsection (k)(4) shall apply.*

4 “(4) *PARTICIPATION REQUIREMENTS.*—

5 “(A) *IN GENERAL.*—*The requirements of*
6 *this paragraph are met with respect to any sim-*
7 *ple retirement account for a year only if, under*
8 *the qualified salary reduction arrangement, all*
9 *employees of the employer who—*

10 “(i) *received at least \$5,000 in com-*
11 *ensation from the employer during any 2*
12 *preceding years, and*

13 “(ii) *are reasonably expected to receive*
14 *at least \$5,000 in compensation during the*
15 *year,*

16 *are eligible to make the election under paragraph*
17 *(2)(A)(i).*

18 “(B) *EXCLUDABLE EMPLOYEES.*—*An em-*
19 *ployer may elect to exclude from the requirement*
20 *under subparagraph (A) employees described in*
21 *section 410(b)(3).*

22 “(5) *ADMINISTRATIVE REQUIREMENTS.*—*The re-*
23 *quirements of this paragraph are met with respect to*
24 *any simplified retirement account if, under the quali-*
25 *fied salary reduction arrangement—*

1 “(A) an employer must—

2 “(i) make the elective employer con-
3 tributions under paragraph (2)(A)(i) not
4 later than the close of the 30-day period fol-
5 lowing the last day of the month with re-
6 spect to which the contributions are to be
7 made, and

8 “(ii) make the matching contributions
9 under paragraph (2)(A)(iii) not later
10 than the date described in section
11 404(m)(2)(B),

12 “(B) an employee may elect to terminate
13 participation in such arrangement at any time
14 during the year, except that if an employee so
15 terminates, the arrangement may provide that
16 the employee may not elect to resume participa-
17 tion until the beginning of the next year, and

18 “(C) each employee eligible to participate
19 may elect, during the 60-day period before the
20 beginning of any year, to participate in the ar-
21 rangement, or to modify the amounts subject to
22 such arrangement, for such year.

23 “(6) DEFINITIONS.—For purposes of this sub-
24 section—

25 “(A) COMPENSATION.—

1 “(i) *IN GENERAL.*—The term ‘com-
2 pensation’ means amounts described in
3 paragraphs (3) and (8) of section 6051(a).

4 “(ii) *SELF-EMPLOYED.*—In the case of
5 an employee described in subparagraph (B),
6 the term ‘compensation’ means net earnings
7 from self-employment determined under sec-
8 tion 1402(a) without regard to any con-
9 tribution under this subsection.

10 “(B) *EMPLOYEE.*—The term ‘employee’ in-
11 cludes an employee as defined in section
12 401(c)(1).

13 “(C) *YEAR.*—The term ‘year’ means the cal-
14 endar year.”

15 (b) *TAX TREATMENT OF SIMPLE RETIREMENT AC-*
16 *COUNTS.*—

17 (1) *DEDUCTIBILITY OF CONTRIBUTIONS BY EM-*
18 *PLOYEES.*—

19 (A) *Section 219(b) (relating to maximum*
20 *amount of deduction) is amended by adding at*
21 *the end the following new paragraph:*

22 “(4) *SPECIAL RULE FOR SIMPLE RETIREMENT*
23 *ACCOUNTS.*—*This section shall not apply with respect*
24 *to any amount contributed to a simple retirement ac-*
25 *count established under section 408(p).”*

1 (B) Section 219(g)(5)(A) (defining active
2 participant) is amended by striking “or” at the
3 end of clause (iv) and by adding at the end the
4 following new clause:

5 “(vi) any simple retirement account
6 (within the meaning of section 408(p)), or”.

7 (2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-
8 TIONS.—Section 404 (relating to deductions for con-
9 tributions of an employer to pension, etc. plans) is
10 amended by adding at the end the following new sub-
11 section:

12 “(m) SPECIAL RULES FOR SIMPLE RETIREMENT AC-
13 COUNTS.—

14 “(1) IN GENERAL.—Employer contributions to a
15 simple retirement account shall be treated as if they
16 are made to a plan subject to the requirements of this
17 section.

18 “(2) TIMING.—

19 “(A) DEDUCTION.—Contributions described
20 in paragraph (1) shall be deductible in the tax-
21 able year of the employer with or within which
22 the calendar year for which the contributions
23 were made ends.

24 “(B) CONTRIBUTIONS AFTER END OF
25 YEAR.—For purposes of this subsection, contribu-

1 *tions shall be treated as made for a taxable year*
2 *if they are made on account of the taxable year*
3 *and are made not later than the time prescribed*
4 *by law for filing the return for the taxable year*
5 *(including extensions thereof)."*

6 (3) *CONTRIBUTIONS AND DISTRIBUTIONS.—*

7 (A) *Section 402 (relating to taxability of*
8 *beneficiary of employees' trust) is amended by*
9 *adding at the end the following new subsection:*

10 *"(k) TREATMENT OF SIMPLE RETIREMENT AC-*
11 *COUNTS.—Rules similar to the rules of paragraphs (1) and*
12 *(3) of subsection (h) shall apply to contributions and dis-*
13 *tributions with respect to a simple retirement account*
14 *under section 408(p)."*

15 (B) *Section 408(d)(3) is amended by add-*
16 *ing at the end the following new subparagraph:*

17 *"(G) SIMPLE RETIREMENT ACCOUNTS.—*
18 *This paragraph shall not apply to any amount*
19 *paid or distributed out of a simple retirement*
20 *account (as defined in section 408(p)) unless—*

21 *"(i) it is paid into another simple re-*
22 *tirement account, or*

23 *"(ii) in the case of any payment or*
24 *distribution to which section 72(t)(8) does*

1 *not apply, it is paid into an individual re-*
2 *tirement plan.”*

3 *(C) Clause (i) of section 457(c)(2)(B) is*
4 *amended by striking “section 402(h)(1)(B)” and*
5 *inserting “section 402(h)(1)(B) or (k)”.*

6 *(4) PENALTIES.—*

7 *(A) EARLY WITHDRAWALS.—Section 72(t)*
8 *(relating to additional tax in early distribu-*
9 *tions), as amended by this Act, is amended by*
10 *adding at the end the following new paragraph:*

11 *“(8) SPECIAL RULES FOR SIMPLE RETIREMENT*
12 *ACCOUNTS.—In the case of any amount received from*
13 *a simple retirement account (within the meaning of*
14 *section 408(p)) during the 2-year period beginning on*
15 *the date such individual first participated in any*
16 *qualified salary reduction arrangement maintained*
17 *by the individual’s employer under section 408(p)(2),*
18 *paragraph (1) shall be applied by substituting ‘25*
19 *percent’ for ‘10 percent’.”*

20 *(B) FAILURE TO REPORT.—Section 6693 is*
21 *amended by redesignating subsection (c) as sub-*
22 *section (d) and by inserting after subsection (b)*
23 *the following new subsection:*

24 *“(c) PENALTIES RELATING TO SIMPLE RETIREMENT*
25 *ACCOUNTS.—*

1 “(1) *EMPLOYER PENALTIES.*—An employer who
2 fails to provide 1 or more notices required by section
3 408(l)(2)(C) shall pay a penalty of \$50 for each day
4 on which such failures continue.

5 “(2) *TRUSTEE PENALTIES.*—A trustee who
6 fails—

7 “(A) to provide 1 or more statements re-
8 quired by the last sentence of section 408(i) shall
9 pay a penalty of \$50 for each day on which such
10 failures continue, or

11 “(B) to provide 1 or more summary de-
12 scriptions required by section 408(l)(2)(B) shall
13 pay a penalty of \$50 for each day on which such
14 failures continue.

15 “(3) *REASONABLE CAUSE EXCEPTION.*—No pen-
16 alty shall be imposed under this subsection with re-
17 spect to any failure which the taxpayer shows was
18 due to reasonable cause.”

19 (5) *REPORTING REQUIREMENTS.*—

20 (A)(i) Section 408(l) is amended by adding
21 at the end the following new paragraph:

22 “(2) *SIMPLE RETIREMENT ACCOUNTS.*—

23 “(A) *NO EMPLOYER REPORTS.*—Except as
24 provided in this paragraph, no report shall be
25 required under this section by an employer

1 *maintaining a qualified salary reduction ar-*
2 *rangement under subsection (p).*

3 “(B) *SUMMARY DESCRIPTION.—The trustee*
4 *of any simple retirement account established*
5 *pursuant to a qualified salary reduction ar-*
6 *rangement under subsection (p) shall provide to*
7 *the employer maintaining the arrangement, each*
8 *year a description containing the following in-*
9 *formation:*

10 “(i) *The name and address of the em-*
11 *ployer and the trustee.*

12 “(ii) *The requirements for eligibility*
13 *for participation.*

14 “(iii) *The benefits provided with re-*
15 *spect to the arrangement.*

16 “(iv) *The time and method of making*
17 *elections with respect to the arrangement.*

18 “(v) *The procedures for, and effects of,*
19 *withdrawals (including rollovers) from the*
20 *arrangement.*

21 “(C) *EMPLOYEE NOTIFICATION.—The em-*
22 *ployer shall notify each employee immediately*
23 *before the period for which an election described*
24 *in subsection (p)(5)(C) may be made of the em-*
25 *ployee’s opportunity to make such election. Such*

1 *notice shall include a copy of the description de-*
2 *scribed in subparagraph (B).”*

3 (ii) Section 408(l) is amended by striking
4 “An employer” and inserting—
5 “(1) *IN GENERAL.—An employer”*.

6 (5) *REPORTING REQUIREMENTS.—Section 408(i)*
7 *is amended by adding at the end the following new*
8 *flush sentence:*

9 *“In the case of a simple retirement account under sub-*
10 *section (p), only one report under this subsection shall be*
11 *required to be submitted each calendar year to the Secretary*
12 *(at the time provided under paragraph (2)) but, in addition*
13 *to the report under this subsection, there shall be furnished,*
14 *within 30 days after each calendar year, to the individual*
15 *on whose behalf the account is maintained a statement with*
16 *respect to the account balance as of the close of, and the*
17 *account activity during, such calendar year.”*

18 (6) *EXEMPTION FROM TOP-HEAVY PLAN*
19 *RULES.—Section 416(g)(4) (relating to special rules*
20 *for top-heavy plans) is amended by adding at the end*
21 *the following new subparagraph:*

22 *“(G) SIMPLE RETIREMENT ACCOUNTS.—The*
23 *term ‘top-heavy plan’ shall not include a simple*
24 *retirement account under section 408(p).”*

25 (7) *CONFORMING AMENDMENTS.—*

1 (A) Section 280G(b)(6) is amended by strik-
2 ing “or” at the end of subparagraph (B), by
3 striking the period at the end of subparagraph
4 (C) and inserting “, or” and by adding after
5 subparagraph (C) the following new subpara-
6 graph:

7 “(D) a simple retirement account described
8 in section 408(p).”

9 (B) Section 402(g)(3) is amended by strik-
10 ing “and” at the end of subparagraph (B), by
11 striking the period at the end of subparagraph
12 (C) and inserting “, and”, and by adding after
13 subparagraph (C) the following new subpara-
14 graph:

15 “(D) any elective employer contribution
16 under section 408(p)(2)(A)(i).”

17 (C) Subsections (b), (c), (m)(4)(B), and
18 (n)(3)(B) of section 414 are each amended by in-
19 serting “408(p),” after “408(k),”.

20 (D) Section 4972(d)(1)(A) is amended by
21 striking “and” at the end of clause (ii), by strik-
22 ing the period at the end of clause (iii) and in-
23 serting “, and”, and by adding after clause (iii)
24 the following new clause:

1 “(iv) any simple retirement account
2 (within the meaning of section 408(p)).”

3 (c) *REPEAL OF SIMPLIFIED EMPLOYEE PENSIONS.*—
4 Section 408(k) is amended by adding at the end the follow-
5 ing new paragraph:

6 “(10) *TERMINATION.*—This subsection shall not
7 apply to any years beginning after December 31,
8 1995. This paragraph shall not apply to a simplified
9 employee pension established before January 1,
10 1996.”

11 (d) *MODIFICATIONS OF ERISA.*—

12 (1) *REPORTING REQUIREMENTS.*—Section 101 of
13 the Employee Retirement Income Security Act of
14 1974 (29 U.S.C. 1021) is amended by redesignating
15 subsection (g) as subsection (h) and by inserting after
16 subsection (f) the following new subsection:

17 “(g) *SIMPLE RETIREMENT ACCOUNTS.*—

18 “(1) *NO EMPLOYER REPORTS.*—Except as pro-
19 vided in this subsection, no report shall be required
20 under this section by an employer maintaining a
21 qualified salary reduction arrangement under section
22 408(p) of the Internal Revenue Code of 1986.

23 “(2) *SUMMARY DESCRIPTION.*—The trustee of
24 any simple retirement account established pursuant
25 to a qualified salary reduction arrangement under

1 *section 408(p) of such Code shall provide to the em-*
2 *ployer maintaining the arrangement each year a de-*
3 *scription containing the following information:*

4 *“(A) The name and address of the employer*
5 *and the trustee.*

6 *“(B) The requirements for eligibility for*
7 *participation.*

8 *“(C) The benefits provided with respect to*
9 *the arrangement.*

10 *“(D) The time and method of making elec-*
11 *tions with respect to the arrangement.*

12 *“(E) The procedures for, and effects of,*
13 *withdrawals (including rollovers) from the ar-*
14 *rangement.*

15 *“(3) EMPLOYEE NOTIFICATION.—The employer*
16 *shall notify each employee immediately before the pe-*
17 *riod for which an election described in section 408*
18 *(p)(5)(C) of such Code may be made of the employee’s*
19 *opportunity to make such election. Such notice shall*
20 *include a copy of the description described in para-*
21 *graph (2).”*

22 *(2) FIDUCIARY DUTIES.—Section 404 (c) of such*
23 *Act (29 U.S.C. 1104(c)) is amended by inserting*
24 *“(1)” after “(c)”, by redesignating paragraphs (1)*
25 *and (2) as subparagraphs (A) and (B), respectively,*

1 *and by adding at the end the following new para-*
2 *graph:*

3 “(2) *In the case of a simple retirement account*
4 *established pursuant to a qualified salary reduction*
5 *arrangement under section 408(p) of the Internal*
6 *Revenue Code of 1986, a participant or beneficiary*
7 *shall, for purposes of paragraph (1), be treated as ex-*
8 *ercising control over the assets in the account upon*
9 *the earliest of—*

10 “(A) *an affirmative election with respect to*
11 *the initial investment of any contribution,*

12 “(B) *a rollover to any other simple retire-*
13 *ment account or individual retirement plan, or*

14 “(C) *one year after the simple retirement*
15 *account is established.*

16 *No reports, other than those required under section*
17 *101(g), shall be required with respect to a simple re-*
18 *tirement account established pursuant to such a*
19 *qualified salary reduction arrangement.”*

20 *(e) EFFECTIVE DATE.—The amendments made by this*
21 *section shall apply to taxable years beginning after Decem-*
22 *ber 31, 1995.*

1 **SEC. 11019. EXTENSION OF SIMPLE PLAN TO 401(k) AR-**
2 **RANGEMENTS.**

3 (a) *ALTERNATIVE METHOD OF SATISFYING SECTION*
4 *401(k) NONDISCRIMINATION TESTS.*—*Section 401(k) (relat-*
5 *ing to cash or deferred arrangements) is amended by adding*
6 *at the end the following new paragraph:*

7 “(11) *ADOPTION OF SIMPLE PLAN TO MEET NON-*
8 *DISCRIMINATION TESTS.*—

9 “(A) *IN GENERAL.*—*A cash or deferred ar-*
10 *rangement maintained by an eligible employer*
11 *shall be treated as meeting the requirements of*
12 *paragraph (3)(A)(ii) if such arrangement*
13 *meets—*

14 “(i) *the contribution requirements of*
15 *subparagraph (B),*

16 “(ii) *the exclusive benefit requirements*
17 *of subparagraph (C), and*

18 “(iii) *the vesting requirements of sec-*
19 *tion 408(p)(3).*

20 “(B) *CONTRIBUTION REQUIREMENTS.*—*The*
21 *requirements of this subparagraph are met if,*
22 *under the arrangement—*

23 “(i) *an employee may elect to have the*
24 *employer make elective contributions for the*
25 *year on behalf of the employee to a trust*
26 *under the plan in an amount which is ex-*

1 *pressed as a percentage of compensation of*
2 *the employee but which in no event exceeds*
3 *\$6,000,*

4 “(ii) *the employer is required to make*
5 *a matching contribution to the trust for the*
6 *year in an amount equal to so much of the*
7 *amount the employee elects under clause (i)*
8 *as does not exceed 3 percent of compensa-*
9 *tion for the year, and*

10 “(iii) *no other contributions may be*
11 *made other than contributions described in*
12 *clause (i) or (ii).*

13 “(C) *EXCLUSIVE BENEFIT.—The require-*
14 *ments of this subparagraph are met for any year*
15 *to which this paragraph applies if no contribu-*
16 *tions were made, or benefits were accrued, for*
17 *services during such year under any qualified*
18 *plan of the employer on behalf of any employee*
19 *eligible to participate in the cash or deferred ar-*
20 *rangement, other than contributions described in*
21 *subparagraph (B).*

22 “(D) *DEFINITIONS AND SPECIAL RULE.—*

23 “(i) *DEFINITIONS.—For purposes of*
24 *this paragraph, any term used in this para-*
25 *graph which is also used in section 408(p)*

1 *shall have the meaning given such term by*
2 *such section.*

3 “(ii) *COORDINATION WITH TOP-HEAVY*
4 *RULES.—A plan meeting the requirements*
5 *of this paragraph for any year shall not be*
6 *treated as a top-heavy plan under section*
7 *416 for such year.”*

8 (b) *ALTERNATIVE METHODS OF SATISFYING SECTION*
9 401(m) *NONDISCRIMINATION TESTS.—Section 401(m) (re-*
10 *lating to nondiscrimination test for matching contributions*
11 *and employee contributions) is amended by redesignating*
12 *paragraph (10) as paragraph (11) and by adding after*
13 *paragraph (9) the following new paragraph:*

14 “(10) *ALTERNATIVE METHOD OF SATISFYING*
15 *TESTS.—A defined contribution plan shall be treated*
16 *as meeting the requirements of paragraph (2) with re-*
17 *spect to matching contributions if the plan—*

18 “(A) *meets the contribution requirements of*
19 *subparagraph (B) of subsection (k)(11),*

20 “(B) *meets the exclusive benefit require-*
21 *ments of subsection (k)(11)(C), and*

22 “(C) *meets the vesting requirements of sec-*
23 *tion 408(p)(3).”*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to plan years beginning after December*
3 *31, 1995.*

4 **CHAPTER 2—CAPITAL GAINS REFORM**
5 **Subchapter A—Taxpayers Other Than**
6 **Corporations**

7 **SEC. 11021. CAPITAL GAINS DEDUCTION.**

8 (a) *IN GENERAL.*—*Part I of subchapter P of chapter*
9 *1 (relating to treatment of capital gains) is amended by*
10 *redesignating section 1202 as section 1203 and by inserting*
11 *after section 1201 the following new section:*

12 **“SEC. 1202. CAPITAL GAINS DEDUCTION.**

13 “(a) *GENERAL RULE.*—*If for any taxable year a tax-*
14 *payer other than a corporation has a net capital gain, 50*
15 *percent of such gain shall be a deduction from gross income.*

16 “(b) *ESTATES AND TRUSTS.*—*In the case of an estate*
17 *or trust, the deduction shall be computed by excluding the*
18 *portion (if any) of the gains for the taxable year from sales*
19 *or exchanges of capital assets which, under sections 652 and*
20 *662 (relating to inclusions of amounts in gross income of*
21 *beneficiaries of trusts), is includible by the income bene-*
22 *ficiaries as gain derived from the sale or exchange of capital*
23 *assets.*

24 “(c) *COORDINATION WITH TREATMENT OF CAPITAL*
25 *GAIN UNDER LIMITATION ON INVESTMENT INTEREST.*—*For*

1 *purposes of this section, the net capital gain for any taxable*
2 *year shall be reduced (but not below zero) by the amount*
3 *which the taxpayer takes into account as investment income*
4 *under section 163(d)(4)(B)(iii).*

5 *“(d) SPECIAL RULE FOR COLLECTIBLES.—*

6 *“(1) IN GENERAL.—The rate of tax imposed by*
7 *section 1 on the excess of—*

8 *“(A) the net capital gain for the taxable*
9 *year determined as if section 1222(12) had not*
10 *applied to any collectible which is sold or ex-*
11 *changed during the taxable year and the basis of*
12 *which was not adjusted under section 1022(a),*
13 *over*

14 *“(B) the net capital gain for the taxable*
15 *year,*
16 *shall not exceed 28 percent.*

17 *“(2) ELECTION.—A taxpayer may elect to treat*
18 *any collectible specified in such election as not being*
19 *an indexed asset for purposes of section 1022. Any*
20 *such election, and any specification therein, once*
21 *made, shall be irrevocable.*

22 *“(e) TRANSITIONAL RULE.—*

23 *“(1) IN GENERAL.—In the case of a taxable year*
24 *which includes January 1, 1995—*

1 “(A) *the amount taken into account as the*
2 *net capital gain under subsection (a) shall not*
3 *exceed the net capital gain determined by only*
4 *taking into account gains and losses properly*
5 *taken into account for the portion of the taxable*
6 *year on or after January 1, 1995, and*

7 “(B) *the amount of the net capital gain*
8 *taken into account in applying section 1(h) for*
9 *such year shall be reduced by the amount taken*
10 *into account under subparagraph (A) for such*
11 *year.*

12 “(2) *SPECIAL RULES FOR PASS-THRU ENTI-*
13 *TIES.—*

14 “(A) *IN GENERAL.—In applying paragraph*
15 *(1) with respect to any pass-thru entity, the de-*
16 *termination of when gains and losses are prop-*
17 *erly taken into account shall be made at the en-*
18 *tity level.*

19 “(B) *PASS-THRU ENTITY DEFINED.—For*
20 *purposes of subparagraph (A), the term ‘pass-*
21 *thru entity’ means—*

22 “(i) *a regulated investment company,*

23 “(ii) *a real estate investment trust,*

24 “(iii) *an S corporation,*

25 “(iv) *a partnership,*

1 “(v) an estate or trust, and

2 “(vi) a common trust fund.”.

3 (b) *DEDUCTION ALLOWABLE IN COMPUTING AD-*
4 *JUSTED GROSS INCOME.*—Subsection (a) of section 62, as
5 *amended by sections 11004 and 11005, is amended by in-*
6 *serting after paragraph (17) the following new paragraph:*

7 “(18) *LONG-TERM CAPITAL GAINS.*—The deduc-
8 *tion allowed by section 1202.”.*

9 (c) *TREATMENT OF COLLECTIBLES.*—

10 (1) *IN GENERAL.*—Section 1222 is amended by
11 *inserting after paragraph (11) the following new*
12 *paragraph:*

13 “(12) *SPECIAL RULE FOR COLLECTIBLES.*—

14 “(A) *IN GENERAL.*—Any gain or loss from
15 *the sale or exchange of a collectible shall be treat-*
16 *ed as a short-term capital gain or loss (as the*
17 *case may be), without regard to the period such*
18 *asset was held. The preceding sentence shall*
19 *apply only to the extent the gain or loss is taken*
20 *into account in computing taxable income.*

21 “(B) *TREATMENT OF CERTAIN SALES OF IN-*
22 *TEREST IN PARTNERSHIP, ETC.*—For purposes of
23 *subparagraph (A), any gain from the sale or ex-*
24 *change of an interest in a partnership, S cor-*
25 *poration, or trust which is attributable to unre-*

1 *alized appreciation in the value of collectibles*
2 *held by such entity shall be treated as gain from*
3 *the sale or exchange of a collectible. Rules simi-*
4 *lar to the rules of section 751(f) shall apply for*
5 *purposes of the preceding sentence.*

6 “(C) *COLLECTIBLE.*—*For purposes of this*
7 *paragraph, the term ‘collectible’ means any cap-*
8 *ital asset which is a collectible (as defined in sec-*
9 *tion 408(m) without regard to paragraph (3)*
10 *thereof).”.*

11 (2) *CHARITABLE DEDUCTION NOT AFFECTED.*—

12 (A) *Paragraph (1) of section 170(e) is*
13 *amended by adding at the end the following new*
14 *sentence: “For purposes of this paragraph, sec-*
15 *tion 1222 shall be applied without regard to*
16 *paragraph (12) thereof (relating to special rule*
17 *for collectibles).”.*

18 (B) *Clause (iv) of section 170(b)(1)(C) is*
19 *amended by inserting before the period at the*
20 *end the following: “and section 1222 shall be ap-*
21 *plied without regard to paragraph (12) thereof*
22 *(relating to special rule for collectibles).”.*

23 (d) *TECHNICAL AND CONFORMING CHANGES.*—

24 (1) *Section 1 is amended by striking subsection*
25 *(h).*

1 (2) Paragraph (1) of section 170(e) is amended
2 by striking “the amount of gain” in the material fol-
3 lowing subparagraph (B)(ii) and inserting “50 per-
4 cent (80 percent in the case of a corporation) of the
5 amount of gain”.

6 (3) Subparagraph (B) of section 172(d)(2) is
7 amended to read as follows:

8 “(B) the deduction under section 1202 shall
9 not be allowed.”.

10 (4) The last sentence of section 453A(c)(3) is
11 amended by striking all that follows “long-term cap-
12 ital gain,” and inserting “the maximum rate on net
13 capital gain under section 1201 or the deduction
14 under section 1202 (whichever is appropriate) shall
15 be taken into account.”.

16 (5) Paragraph (4) of section 642(c) is amended
17 to read as follows:

18 “(4) ADJUSTMENTS.—To the extent that the
19 amount otherwise allowable as a deduction under this
20 subsection consists of gain from the sale or exchange
21 of capital assets held for more than 1 year, proper ad-
22 justment shall be made for any deduction allowable to
23 the estate or trust under section 1202 (relating to cap-
24 ital gains deduction). In the case of a trust, the de-

1 *duction allowed by this subsection shall be subject to*
2 *section 681 (relating to unrelated business income).”.*

3 (6) *The last sentence of section 643(a)(3) is*
4 *amended to read as follows: “The deduction under sec-*
5 *tion 1202 (relating to capital gains deduction) shall*
6 *not be taken into account.”.*

7 (7) *Subparagraph (C) of section 643(a)(6) is*
8 *amended by inserting “(i)” before “there shall” and*
9 *by inserting before the period “, and (ii) the deduc-*
10 *tion under section 1202 (relating to capital gains de-*
11 *duction) shall not be taken into account”.*

12 (8)(A) *Paragraph (2) of section 904(b) is amend-*
13 *ed by striking subparagraph (A), by redesignating*
14 *subparagraph (B) as subparagraph (A), and by in-*
15 *serting after subparagraph (A) (as so redesignated)*
16 *the following new subparagraph:*

17 *“(B) OTHER TAXPAYERS.—In the case of a*
18 *taxpayer other than a corporation, taxable in-*
19 *come from sources outside the United States shall*
20 *include gain from the sale or exchange of capital*
21 *assets only to the extent of foreign source capital*
22 *gain net income.”.*

23 (B) *Subparagraph (A) of section 904(b)(2), as so*
24 *redesignated, is amended—*

1 *(i) by striking all that precedes clause (i)*
2 *and inserting the following:*

3 “(A) CORPORATIONS.—*In the case of a cor-*
4 *poration—*”, and

5 *(ii) by striking in clause (i) “in lieu of ap-*
6 *plying subparagraph (A),”.*

7 (C) Paragraph (3) of section 904(b) is amended
8 by striking subparagraphs (D) and (E) and inserting
9 the following new subparagraph:

10 “(D) RATE DIFFERENTIAL PORTION.—*The*
11 *rate differential portion of foreign source net*
12 *capital gain, net capital gain, or the excess of*
13 *net capital gain from sources within the United*
14 *States over net capital gain, as the case may be,*
15 *is the same proportion of such amount as the ex-*
16 *cess of the highest rate of tax specified in section*
17 *11(b) over the alternative rate of tax under sec-*
18 *tion 1201(a) bears to the highest rate of tax spec-*
19 *ified in section 11(b).”.*

20 (D) Clause (v) of section 593(b)(2)(D) is amend-
21 ed—

22 *(i) by striking “if there is a capital gain*
23 *rate differential (as defined in section*
24 *904(b)(3)(D)) for the taxable year,” and*

1 (ii) by striking “section 904(b)(3)(E)” and
2 inserting “section 904(b)(3)(D)”.

3 (9) The last sentence of section 1044(d) is
4 amended by striking “1202” and inserting “1203”.

5 (10)(A) Paragraph (2) of section 1211(b) is
6 amended to read as follows:

7 “(2) the sum of—

8 “(A) the excess of the net short-term capital
9 loss over the net long-term capital gain, and

10 “(B) one-half of the excess of the net long-
11 term capital loss over the net short-term capital
12 gain.”.

13 (B) So much of paragraph (2) of section 1212(b)
14 as precedes subparagraph (B) thereof is amended to
15 read as follows:

16 “(2) SPECIAL RULES.—

17 “(A) ADJUSTMENTS.—

18 “(i) For purposes of determining the
19 excess referred to in paragraph (1)(A), there
20 shall be treated as short-term capital gain
21 in the taxable year an amount equal to the
22 lesser of—

23 “(I) the amount allowed for the
24 taxable year under paragraph (1) or
25 (2) of section 1211(b), or

1 “(II) the adjusted taxable income
2 for such taxable year.

3 “(ii) For purposes of determining the
4 excess referred to in paragraph (1)(B), there
5 shall be treated as short-term capital gain
6 in the taxable year an amount equal to the
7 sum of—

8 “(I) the amount allowed for the
9 taxable year under paragraph (1) or
10 (2) of section 1211(b) or the adjusted
11 taxable income for such taxable year,
12 whichever is the least, plus

13 “(II) the excess of the amount de-
14 scribed in subclause (I) over the net
15 short-term capital loss (determined
16 without regard to this subsection) for
17 such year.”.

18 (C) Subsection (b) of section 1212 is amended by
19 adding at the end the following new paragraph:

20 “(3) TRANSITIONAL RULE.—In the case of any
21 amount which, under this subsection and section
22 1211(b) (as in effect for taxable years beginning before
23 January 1, 1996), is treated as a capital loss in the
24 first taxable year beginning after December 31, 1995,
25 paragraph (2) and section 1211(b) (as so in effect)

1 shall apply (and paragraph (2) and section 1211(b)
2 as in effect for taxable years beginning after December
3 31, 1995, shall not apply) to the extent such amount
4 exceeds the total of any capital gain net income (de-
5 termined without regard to this subsection) for tax-
6 able years beginning after December 31, 1995.”.

7 (11) Paragraph (1) of section 1402(i) is amend-
8 ed by inserting “, and the deduction provided by sec-
9 tion 1202 shall not apply” before the period at the
10 end thereof.

11 (12) Subsection (e) of section 1445 is amended—

12 (A) in paragraph (1) by striking “35 per-
13 cent (or, to the extent provided in regulations, 28
14 percent)” and inserting “28 percent (or, to the
15 extent provided in regulations, 19.8 percent)”,
16 and

17 (B) in paragraph (2) by striking “35 per-
18 cent” and inserting “28 percent”.

19 (13)(A) The second sentence of section
20 7518(g)(6)(A) is amended—

21 (i) by striking “during a taxable year to
22 which section 1(h) or 1201(a) applies”, and

23 (ii) by striking “28 percent (34 percent)”
24 and inserting “19.8 percent (28 percent)”.

1 (B) *The second sentence of section 607(h)(6)(A)*
2 *of the Merchant Marine Act, 1936 is amended—*

3 (i) *by striking “during a taxable year to*
4 *which section 1(h) or 1201(a) of such Code ap-*
5 *plies”, and*

6 (ii) *by striking “28 percent (34 percent”*
7 *and inserting “19.8 percent (28 percent”.*

8 (e) *CLERICAL AMENDMENT.—The table of sections for*
9 *part I of subchapter P of chapter 1 is amended by striking*
10 *the item relating to section 1202 and by inserting after the*
11 *item relating to section 1201 the following new items:*

“Sec. 1202. Capital gains deduction.

“Sec. 1203. Small business stock eligible for preferential rates.”.

12 (f) *EFFECTIVE DATE.—*

13 (1) *IN GENERAL.—Except as otherwise provided*
14 *in this subsection, the amendments made by this sec-*
15 *tion shall apply to taxable years ending after Decem-*
16 *ber 31, 1994.*

17 (2) *COLLECTIBLES.—The amendments made by*
18 *subsection (c) shall apply to sales and exchanges after*
19 *December 31, 1994.*

20 (3) *REPEAL OF SECTION 1(h).—The amendment*
21 *made by subsection (d)(1) shall apply to taxable years*
22 *beginning after January 1, 1995.*

1 (4) *CONTRIBUTIONS.*—*The amendment made by*
 2 *subsection (d)(2) shall apply to contributions after*
 3 *December 31, 1994.*

4 (5) *USE OF LONG-TERM LOSSES.*—*The amend-*
 5 *ments made by subsection (d)(10) shall apply to tax-*
 6 *able years beginning after December 31, 1995.*

7 (6) *WITHHOLDING.*—*The amendment made by*
 8 *subsection (d)(12) shall apply only to amounts paid*
 9 *after the date of the enactment of this Act.*

10 ***SEC. 11022. INDEXING OF CERTAIN ASSETS ACQUIRED***
 11 ***AFTER DECEMBER 31, 2000, FOR PURPOSES OF***
 12 ***DETERMINING GAIN.***

13 (a) *IN GENERAL.*—*Part II of subchapter O of chapter*
 14 *1 (relating to basis rules of general application) is amended*
 15 *by inserting after section 1021 the following new section:*

16 ***“SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED***
 17 ***AFTER DECEMBER 31, 2000, FOR PURPOSES OF***
 18 ***DETERMINING GAIN.***

19 “*(a) GENERAL RULE.*—

20 “*(1) INDEXED BASIS SUBSTITUTED FOR AD-*
 21 *JUSTED BASIS.*—*Solely for purposes of determining*
 22 *gain on the sale or other disposition by a taxpayer*
 23 *(other than a corporation) of an indexed asset which*
 24 *has been held for more than 3 years, the indexed basis*
 25 *of the asset shall be substituted for its adjusted basis.*

1 “(2) *EXCEPTION FOR DEPRECIATION, ETC.*—The
2 *deductions for depreciation, depletion, and amortiza-*
3 *tion shall be determined without regard to the appli-*
4 *cation of paragraph (1) to the taxpayer or any other*
5 *person.*

6 “(b) *INDEXED ASSET.*—

7 “(1) *IN GENERAL.*—For purposes of this section,
8 *the term ‘indexed asset’ means—*

9 “(A) *common stock in a C corporation*
10 *(other than a foreign corporation), and*

11 “(B) *tangible property,*
12 *which is a capital asset or property used in the trade*
13 *or business (as defined in section 1231(b)).*

14 “(2) *STOCK IN CERTAIN FOREIGN CORPORATIONS*
15 *INCLUDED.*—For purposes of this section—

16 “(A) *IN GENERAL.*—The term ‘indexed
17 *asset’ includes common stock in a foreign cor-*
18 *poration which is regularly traded on an estab-*
19 *lished securities market.*

20 “(B) *EXCEPTION.*—Subparagraph (A) shall
21 *not apply to—*

22 “(i) *stock of a foreign investment com-*
23 *pany (within the meaning of section*
24 *1246(b)),*

1 “(ii) stock in a passive foreign invest-
2 ment company (as defined in section 1296),

3 “(iii) stock in a foreign corporation
4 held by a United States person who meets
5 the requirements of section 1248(a)(2), and

6 “(iv) stock in a foreign personal hold-
7 ing company (as defined in section 552).

8 “(C) *TREATMENT OF AMERICAN DEPOSI-*
9 *TORY RECEIPTS.*—An American depository re-
10 ceipt for common stock in a foreign corporation
11 shall be treated as common stock in such cor-
12 poration.

13 “(c) *INDEXED BASIS.*—For purposes of this section—

14 “(1) *GENERAL RULE.*—The indexed basis for any
15 asset is—

16 “(A) the adjusted basis of the asset, in-
17 creased by

18 “(B) the applicable inflation adjustment.

19 “(2) *APPLICABLE INFLATION ADJUSTMENT.*—The
20 applicable inflation adjustment for any asset is an
21 amount equal to—

22 “(A) the adjusted basis of the asset, multi-
23 plied by

24 “(B) the percentage (if any) by which—

1 “(i) the gross domestic product deflator
2 for the last calendar quarter ending before
3 the asset is disposed of, exceeds

4 “(ii) the gross domestic product
5 deflator for the last calendar quarter ending
6 before the asset was acquired by the tax-
7 payer.

8 The percentage under subparagraph (B) shall be
9 rounded to the nearest $\frac{1}{10}$ of 1 percentage point.

10 “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—

11 The gross domestic product deflator for any calendar
12 quarter is the implicit price deflator for the gross do-
13 mestic product for such quarter (as shown in the last
14 revision thereof released by the Secretary of Commerce
15 before the close of the following calendar quarter).

16 “(d) SUSPENSION OF HOLDING PERIOD WHERE DI-
17 MINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

18 “(1) IN GENERAL.—If the taxpayer (or a related
19 person) enters into any transaction which substan-
20 tially reduces the risk of loss from holding any asset,
21 such asset shall not be treated as an indexed asset for
22 the period of such reduced risk.

23 “(2) SHORT SALES.—

24 “(A) IN GENERAL.—In the case of a short
25 sale of an indexed asset with a short sale period

1 *in excess of 3 years, for purposes of this title, the*
2 *amount realized shall be an amount equal to the*
3 *amount realized (determined without regard to*
4 *this paragraph) increased by the applicable in-*
5 *flation adjustment. In applying subsection (c)(2)*
6 *for purposes of the preceding sentence, the date*
7 *on which the property is sold short shall be treat-*
8 *ed as the date of acquisition and the closing date*
9 *for the sale shall be treated as the date of disposi-*
10 *tion.*

11 “(B) *SHORT SALE PERIOD.*—*For purposes*
12 *of subparagraph (A), the short sale period begins*
13 *on the day that the property is sold and ends on*
14 *the closing date for the sale.*

15 “(e) *TREATMENT OF REGULATED INVESTMENT COM-*
16 *PANIES AND REAL ESTATE INVESTMENT TRUSTS.*—

17 “(1) *ADJUSTMENTS AT ENTITY LEVEL.*—

18 “(A) *IN GENERAL.*—*Except as otherwise*
19 *provided in this paragraph, the adjustment*
20 *under subsection (a) shall be allowed to any*
21 *qualified investment entity (including for pur-*
22 *poses of determining the earnings and profits of*
23 *such entity).*

24 “(B) *EXCEPTION FOR CORPORATE SHARE-*
25 *HOLDERS.*—*Under regulations—*

1 “(i) in the case of a distribution by a
2 qualified investment entity (directly or in-
3 directly) to a corporation—

4 “(I) the determination of whether
5 such distribution is a dividend shall be
6 made without regard to this section,
7 and

8 “(II) the amount treated as gain
9 by reason of the receipt of any capital
10 gain dividend shall be increased by the
11 percentage by which the entity’s net
12 capital gain for the taxable year (de-
13 termined without regard to this sec-
14 tion) exceeds the entity’s net capital
15 gain for such year determined with re-
16 gard to this section, and

17 “(ii) there shall be other appropriate
18 adjustments (including deemed distribu-
19 tions) so as to ensure that the benefits of
20 this section are not allowed (directly or in-
21 directly) to corporate shareholders of quali-
22 fied investment entities.

23 For purposes of the preceding sentence, any
24 amount includible in gross income under section
25 852(b)(3)(D) shall be treated as a capital gain

1 *dividend and an S corporation shall not be*
2 *treated as a corporation.*

3 “(C) *EXCEPTION FOR QUALIFICATION PUR-*
4 *POSES.—This section shall not apply for pur-*
5 *poses of sections 851(b) and 856(c).*

6 “(D) *EXCEPTION FOR CERTAIN TAXES IM-*
7 *POSED AT ENTITY LEVEL.—*

8 “(i) *TAX ON FAILURE TO DISTRIBUTE*
9 *ENTIRE GAIN.—If any amount is subject to*
10 *tax under section 852(b)(3)(A) for any tax-*
11 *able year, the amount on which tax is im-*
12 *posed under such section shall be increased*
13 *by the percentage determined under sub-*
14 *paragraph (B)(i)(II). A similar rule shall*
15 *apply in the case of any amount subject to*
16 *tax under paragraph (2) or (3) of section*
17 *857(b) to the extent attributable to the ex-*
18 *cess of the net capital gain over the deduc-*
19 *tion for dividends paid determined with ref-*
20 *erence to capital gain dividends only. The*
21 *first sentence of this clause shall not apply*
22 *to so much of the amount subject to tax*
23 *under section 852(b)(3)(A) as is designated*
24 *by the company under section 852(b)(3)(D).*

1 “(i) *OTHER TAXES.*—*This section*
2 *shall not apply for purposes of determining*
3 *the amount of any tax imposed by para-*
4 *graph (4), (5), or (6) of section 857(b).*

5 “(2) *ADJUSTMENTS TO INTERESTS HELD IN EN-*
6 *TITY.*—

7 “(A) *REGULATED INVESTMENT COMPA-*
8 *NIES.*—*Stock in a regulated investment company*
9 *(within the meaning of section 851) shall be an*
10 *indexed asset for any calendar quarter in the*
11 *same ratio as—*

12 “(i) *the average of the fair market val-*
13 *ues of the indexed assets held by such com-*
14 *pany at the close of each month during such*
15 *quarter, bears to*

16 “(ii) *the average of the fair market val-*
17 *ues of all assets held by such company at*
18 *the close of each such month.*

19 “(B) *REAL ESTATE INVESTMENT TRUSTS.*—
20 *Stock in a real estate investment trust (within*
21 *the meaning of section 856) shall be an indexed*
22 *asset for any calendar quarter in the same ratio*
23 *as—*

1 “(i) the fair market value of the in-
2 dexed assets held by such trust at the close
3 of such quarter, bears to

4 “(ii) the fair market value of all assets
5 held by such trust at the close of such quar-
6 ter.

7 “(C) *RATIO OF 80 PERCENT OR MORE.*—If
8 the ratio for any calendar quarter determined
9 under subparagraph (A) or (B) would (but for
10 this subparagraph) be 80 percent or more, such
11 ratio for such quarter shall be 100 percent.

12 “(D) *RATIO OF 20 PERCENT OR LESS.*—If
13 the ratio for any calendar quarter determined
14 under subparagraph (A) or (B) would (but for
15 this subparagraph) be 20 percent or less, such
16 ratio for such quarter shall be zero.

17 “(E) *LOOK-THRU OF PARTNERSHIPS.*—For
18 purposes of this paragraph, a qualified invest-
19 ment entity which holds a partnership interest
20 shall be treated (in lieu of holding a partnership
21 interest) as holding its proportionate share of the
22 assets held by the partnership.

23 “(3) *TREATMENT OF RETURN OF CAPITAL DIS-*
24 *TRIBUTIONS.*—Except as otherwise provided by the
25 Secretary, a distribution with respect to stock in a

1 *qualified investment entity which is not a dividend*
2 *and which results in a reduction in the adjusted basis*
3 *of such stock shall be treated as allocable to stock ac-*
4 *quired by the taxpayer in the order in which such*
5 *stock was acquired.*

6 “(4) *QUALIFIED INVESTMENT ENTITY.*—*For pur-*
7 *poses of this subsection, the term ‘qualified investment*
8 *entity’ means—*

9 “(A) *a regulated investment company*
10 *(within the meaning of section 851), and*

11 “(B) *a real estate investment trust (within*
12 *the meaning of section 856).*

13 “(f) *OTHER PASS-THRU ENTITIES.*—

14 “(1) *PARTNERSHIPS.*—

15 “(A) *IN GENERAL.*—*In the case of a part-*
16 *nership, the adjustment made under subsection*
17 *(a) at the partnership level shall be passed*
18 *through to the partners.*

19 “(B) *SPECIAL RULE IN THE CASE OF SEC-*
20 *TION 754 ELECTIONS.*—*In the case of a transfer*
21 *of an interest in a partnership with respect to*
22 *which the election provided in section 754 is in*
23 *effect—*

24 “(i) *the adjustment under section*
25 *743(b)(1) shall, with respect to the trans-*

1 *feror partner, be treated as a sale of the*
2 *partnership assets for purposes of applying*
3 *this section, and*

4 *“(ii) with respect to the transferee*
5 *partner, the partnership’s holding period*
6 *for purposes of this section in such assets*
7 *shall be treated as beginning on the date of*
8 *such adjustment.*

9 *“(2) S CORPORATIONS.—In the case of an S cor-*
10 *poration, the adjustment made under subsection (a)*
11 *at the corporate level shall be passed through to the*
12 *shareholders. This section shall not apply for purposes*
13 *of determining the amount of any tax imposed by sec-*
14 *tion 1374 or 1375.*

15 *“(3) COMMON TRUST FUNDS.—In the case of a*
16 *common trust fund, the adjustment made under sub-*
17 *section (a) at the trust level shall be passed through*
18 *to the participants.*

19 *“(4) INDEXING ADJUSTMENT DISREGARDED IN*
20 *DETERMINING LOSS ON SALE OF INTEREST IN EN-*
21 *TITY.—Notwithstanding the preceding provisions of*
22 *this subsection, for purposes of determining the*
23 *amount of any loss on a sale or exchange of an inter-*
24 *est in a partnership, S corporation, or common trust*
25 *fund, the adjustment made under subsection (a) shall*

1 *not be taken into account in determining the adjusted*
2 *basis of such interest.*

3 “(g) *DISPOSITIONS BETWEEN RELATED PERSONS.*—

4 “(1) *IN GENERAL.*—*This section shall not apply*
5 *to any sale or other disposition of property between*
6 *related persons except to the extent that the basis of*
7 *such property in the hands of the transferee is a sub-*
8 *stituted basis.*

9 “(2) *RELATED PERSONS DEFINED.*—*For pur-*
10 *poses of this section, the term ‘related persons’*
11 *means—*

12 “(A) *persons bearing a relationship set forth*
13 *in section 267(b), and*

14 “(B) *persons treated as single employer*
15 *under subsection (b) or (c) of section 414.*

16 “(h) *TRANSFERS TO INCREASE INDEXING ADJUST-*
17 *MENT.*—*If any person transfers cash, debt, or any other*
18 *property to another person and the principal purpose of*
19 *such transfer is to secure or increase an adjustment under*
20 *subsection (a), the Secretary may disallow part or all of*
21 *such adjustment or increase.*

22 “(i) *SPECIAL RULES.*—*For purposes of this section—*

23 “(1) *TREATMENT OF IMPROVEMENTS, ETC.*—*If*
24 *there is an addition to the adjusted basis of any tan-*
25 *gible property or of any stock in a corporation during*

1 *the taxable year by reason of an improvement to such*
2 *property or a contribution to capital of such corpora-*
3 *tion—*

4 *“(A) such addition shall never be taken into*
5 *account under subsection (c)(1)(A) if the aggre-*
6 *gate amount thereof during the taxable year with*
7 *respect to such property or stock is less than*
8 *\$1,000, and*

9 *“(B) such addition shall be treated as a sep-*
10 *arate asset acquired at the close of such taxable*
11 *year if the aggregate amount thereof during the*
12 *taxable year with respect to such property or*
13 *stock is \$1,000 or more.*

14 *A rule similar to the rule of the preceding sentence*
15 *shall apply to any other portion of an asset to the ex-*
16 *tent that separate treatment of such portion is appro-*
17 *priate to carry out the purposes of this section.*

18 *“(2) ASSETS WHICH ARE NOT INDEXED ASSETS*
19 *THROUGHOUT HOLDING PERIOD.—The applicable in-*
20 *flation adjustment shall be appropriately reduced for*
21 *periods during which the asset was not an indexed*
22 *asset.*

23 *“(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—*
24 *A distribution with respect to stock in a corporation*

1 *which is not a dividend shall be treated as a disposi-*
2 *tion.*

3 “(4) *ACQUISITION DATE WHERE THERE HAS*
4 *BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH*
5 *RESPECT TO THE TAXPAYER.—If there has been a*
6 *prior application of subsection (a)(1) to an asset*
7 *while such asset was held by the taxpayer, the date*
8 *of acquisition of such asset by the taxpayer shall be*
9 *treated as not earlier than the date of the most recent*
10 *such prior application.*

11 “(5) *COLLAPSIBLE CORPORATIONS.—The appli-*
12 *cation of section 341(a) (relating to collapsible cor-*
13 *porations) shall be determined without regard to this*
14 *section.*

15 “(j) *REGULATIONS.—The Secretary shall prescribe*
16 *such regulations as may be necessary or appropriate to*
17 *carry out the purposes of this section.”*

18 “(b) *CLERICAL AMENDMENT.—The table of sections for*
19 *part II of subchapter O of chapter 1 is amended by insert-*
20 *ing after the item relating to section 1021 the following new*
21 *item:*

*“Sec. 1022. Indexing of certain assets acquired after December 31,
2000, for purposes of determining gain.”*

22 “(c) *EFFECTIVE DATE.—*

23 “(1) *IN GENERAL.—The amendments made by*
24 *this section shall apply to the disposition of any*

1 *property the holding period of which begins after De-*
2 *cember 31, 2000.*

3 (2) *CERTAIN TRANSACTIONS BETWEEN RELATED*
4 *PERSONS.—The amendments made by this section*
5 *shall not apply to the disposition of any property ac-*
6 *quired after December 31, 2000, from a related person*
7 *(as defined in section 1022(g)(2) of the Internal Reve-*
8 *nue Code of 1986, as added by this section) if—*

9 (A) *such property was so acquired for a*
10 *price less than the property's fair market value,*
11 *and*

12 (B) *the amendments made by this section*
13 *did not apply to such property in the hands of*
14 *such related person.*

15 (d) *ELECTION TO RECOGNIZE GAIN ON ASSETS HELD*
16 *ON JANUARY 1, 2001.—For purposes of the Internal Reve-*
17 *nue Code of 1986—*

18 (1) *IN GENERAL.—A taxpayer other than a cor-*
19 *poration may elect to treat—*

20 (A) *any readily tradable stock (which is an*
21 *indexed asset) held by such taxpayer on January*
22 *1, 2001, and not sold before the next business*
23 *day after such date, as having been sold on such*
24 *next business day for an amount equal to its*
25 *closing market price on such next business day*

1 *(and as having been reacquired on such next*
2 *business day for an amount equal to such closing*
3 *market price), and*

4 *(B) any other indexed asset held by the tax-*
5 *payer on January 1, 2001, as having been sold*
6 *on such date for an amount equal to its fair*
7 *market value on such date (and as having been*
8 *reacquired on such date for an amount equal to*
9 *such fair market value).*

10 (2) *TREATMENT OF GAIN OR LOSS.—*

11 *(A) Any gain resulting from an election*
12 *under paragraph (1) shall be treated as received*
13 *or accrued on the date the asset is treated as sold*
14 *under paragraph (1) and shall be recognized not-*
15 *withstanding any provision of the Internal Reve-*
16 *nue Code of 1986.*

17 *(B) Any loss resulting from an election*
18 *under paragraph (1) shall not be allowed for any*
19 *taxable year.*

20 (3) *ELECTION.—An election under paragraph*
21 *(1) shall be made in such manner as the Secretary of*
22 *the Treasury or his delegate may prescribe and shall*
23 *specify the assets for which such election is made.*
24 *Such an election, once made with respect to any asset,*
25 *shall be irrevocable.*

1 “(h) *MAXIMUM CAPITAL GAINS RATE FOR CERTAIN*
2 *SMALL BUSINESS STOCK.*—

3 “(1) *IN GENERAL.*—*If for any taxable year a*
4 *taxpayer has gain from the sale or exchange of any*
5 *qualified small business stock held for more than 5*
6 *years, then the tax imposed by this section shall not*
7 *exceed the sum of—*

8 “(A) *a tax computed on the taxable income*
9 *reduced by 1/2 the amount of the small business*
10 *gain, at the rates and in the manner as if this*
11 *subsection had not been enacted, plus*

12 “(B) *a tax of 14 percent of the small busi-*
13 *ness gain.*

14 “(2) *SMALL BUSINESS GAIN.*—*For purposes of*
15 *paragraph (1), the term ‘small business gain’ means*
16 *the lesser of—*

17 “(A) *gain from the sale or exchange of any*
18 *qualified small business stock held for more than*
19 *5 years, or*

20 “(B) *the net capital gain taken into account*
21 *under section 1202(a).*

22 “(3) *QUALIFIED SMALL BUSINESS STOCK.*—*The*
23 *term ‘qualified small business stock’ has the meaning*
24 *given such term by section 1203(c).”*

1 (3) *OTHER RULES.*—The amendments made by
 2 subsections (d) and (e) shall apply to stock issued
 3 after August 10, 1993.

4 ***Subchapter B—Corporate Capital Gains***

5 ***SEC. 11025. REDUCTION OF ALTERNATIVE CAPITAL GAIN***
 6 ***TAX FOR CORPORATIONS.***

7 (a) *IN GENERAL.*—Section 1201 is amended to read
 8 as follows:

9 ***“SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.***

10 ***“(a) GENERAL RULE.***—If for any taxable year a cor-
 11 poration has a net capital gain, then, in lieu of the tax
 12 imposed by sections 11, 511, and 831 (a) and (b) (whichever
 13 is applicable), there is hereby imposed a tax (if such tax
 14 is less than the tax imposed by such sections) which shall
 15 consist of the sum of—

16 ***“(1) a tax computed on the taxable income re-***
 17 ***duced by the amount of the net capital gain, at the***
 18 ***rates and in the manner as if this subsection had not***
 19 ***been enacted, plus***

20 ***“(2) a tax of 28 percent of the net capital gain.***

21 ***“(b) SPECIAL RULES FOR QUALIFIED SMALL BUSI-***
 22 ***NESS GAIN.***—

23 ***“(1) IN GENERAL.***—If for any taxable year a
 24 corporation has gain from the sale or exchange of any
 25 qualified small business stock held for more than 5

1 *years, the amount determined under subsection (a)(2)*
2 *for such taxable year shall be equal to the sum of—*

3 *“(A) 21 percent of the lesser of such gain or*
4 *the corporation’s net capital gain, plus*

5 *“(B) 28 percent of the net capital gain re-*
6 *duced by the gain taken into account under sub-*
7 *paragraph (A).*

8 *“(2) QUALIFIED SMALL BUSINESS STOCK.—For*
9 *purposes of paragraph (1), the term ‘qualified small*
10 *business stock’ has the meaning given such term by*
11 *section 1203(c), except that stock shall not be treated*
12 *as qualified small business stock if such stock was at*
13 *any time held by a member of the parent-subsubsidiary*
14 *controlled group (as defined in section 1203(d)(3))*
15 *which includes the qualified small business.*

16 *“(c) TRANSITIONAL RULE.—*

17 *“(1) IN GENERAL.—In applying this section, net*
18 *capital gain for any taxable year shall not exceed the*
19 *net capital gain determined by taking into account*
20 *only gains and losses properly taken into account for*
21 *the portion of the taxable year after December 31,*
22 *1994.*

23 *“(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—*
24 *Section 1202(e)(2) shall apply for purposes of para-*
25 *graph (1).*

1 “(d) *CROSS REFERENCES.*—

“*For computation of the alternative tax—*

“*(1) in the case of life insurance companies, see section 801(a)(2),*

“*(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and*

“*(3) in the case of real estate investment trusts, see section 857(b)(3)(A).*”.

2 (b) *TECHNICAL AMENDMENT.*—*Clause (iii) of section*
 3 *852(b)(3)(D) is amended by striking “65 percent” and in-*
 4 *serting “72 percent”.*

5 (c) *EFFECTIVE DATE.*—

6 (1) *IN GENERAL.*—*The amendments made by*
 7 *this section shall apply to taxable years ending after*
 8 *December 31, 1994.*

9 (2) *QUALIFIED SMALL BUSINESS STOCK.*—*Sec-*
 10 *tion 1201(b) of the Internal Revenue Code of 1986 (as*
 11 *added by subsection (a)) shall apply to gain from*
 12 *qualified small business stock acquired on or after the*
 13 *date of the enactment of this Act.*

14 ***Subchapter C—Capital Loss Deduction Al-***
 15 ***lowed With Respect to Sale or Exchange of***
 16 ***Principal Residence***

17 ***SEC. 11026. CAPITAL LOSS DEDUCTION ALLOWED WITH RE-***
 18 ***SPECT TO SALE OR EXCHANGE OF PRINCIPAL***
 19 ***RESIDENCE.***

20 (a) *IN GENERAL.*—*Subsection (c) of section 165 (relat-*
 21 *ing to limitation on losses of individuals) is amended by*

1 striking “and” at the end of paragraph (2), by striking the
2 period at the end of paragraph (3) and inserting “; and”,
3 and by adding at the end the following new paragraph:

4 “(4) losses arising from the sale or exchange of
5 the principal residence (within the meaning of section
6 1034) of the taxpayer.”

7 (b) *EFFECTIVE DATE*.—The amendment made by sub-
8 section (a) shall apply to sales and exchanges after Decem-
9 ber 31, 1994, in taxable years ending after such date.

10 **CHAPTER 3—CORPORATE ALTERNATIVE**

11 **MINIMUM TAX REFORM**

12 **SEC. 11031. MODIFICATION OF DEPRECIATION RULES** 13 **UNDER MINIMUM TAX.**

14 (a) *IN GENERAL*.—Clause (i) of section 56(a)(1)(A) is
15 amended by inserting “and before January 1, 1996,” after
16 “December 31, 1986,”.

17 (b) *CONFORMING AMENDMENT*.—Clause (ii) of section
18 56(a)(1)(A) is amended by striking “The method” and in-
19 serting “In the case of property placed in service before Jan-
20 uary 1, 1996, the method”.

21 (c) *EFFECTIVE DATE*.—The amendments made by this
22 section shall apply to taxable years ending after December
23 31, 1995.

1 **SEC. 11032. LONG-TERM UNUSED CREDITS ALLOWED**
2 **AGAINST MINIMUM TAX.**

3 (a) *IN GENERAL.*—Section 53(c) (relating to limita-
4 tion) is amended by adding at the end the following new
5 paragraph:

6 “(2) *SPECIAL RULE FOR TAXPAYERS WITH LONG-*
7 *TERM UNUSED CREDITS.*—

8 “(A) *IN GENERAL.*—If—

9 “(i) a corporation to which section
10 56(g) applies has a long-term unused mini-
11 mum tax credit for a taxable year, and

12 “(ii) no credit would be allowable
13 under this section for the taxable year by
14 reason of paragraph (1),

15 then there shall be allowed a credit under sub-
16 section (a) for the taxable year in the amount de-
17 termined under subparagraph (B).

18 “(B) *AMOUNT OF CREDIT.*—For purposes of
19 subparagraph (A), the amount of the credit shall
20 be equal to the least of the following for the tax-
21 able year:

22 “(i) The long-term unused minimum
23 tax credit.

24 “(ii) 50 percent of the taxpayer’s ten-
25 tative minimum tax.

1 “(iii) *The excess (if any) of the amount*
2 *under paragraph (1)(B) over the amount*
3 *under paragraph (1)(A).*

4 “(C) *LONG-TERM UNUSED MINIMUM TAX*
5 *CREDIT.—For purposes of this paragraph—*

6 “(i) *IN GENERAL.—The long-term un-*
7 *used minimum tax credit for any taxable*
8 *year is the portion of the minimum tax*
9 *credit determined under subsection (b) at-*
10 *tributable to the adjusted net minimum tax*
11 *for taxable years beginning after 1986 and*
12 *ending before the 7th taxable year imme-*
13 *diately preceding the taxable year for which*
14 *the determination is being made.*

15 “(ii) *FIRST-IN, FIRST-OUT ORDERING*
16 *RULE.—For purposes of clause (i), credits*
17 *shall be treated as allowed under subsection*
18 *(a) on a first-in, first-out basis.”.*

19 “(b) *CONFORMING AMENDMENTS.—(1) Section 53(c) (as*
20 *in effect before the amendment made by subsection (a)) is*
21 *amended—*

22 (A) *by striking “The” and inserting:*

23 “(1) *IN GENERAL.—The”, and*

24 (B) *by redesignating paragraphs (1) and (2) as*
25 *subparagraphs (A) and (B), respectively.*

1 (2) Subparagraph (C) of section 108(b)(4) is amended
 2 by striking “and (G)” in the text and heading thereof and
 3 inserting “, (C), and (G)”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
 5 section shall apply to taxable years beginning after Decem-
 6 ber 31, 1995.

7 **CHAPTER 4—COST RECOVERY**

8 **PROVISIONS**

9 **SEC. 11035. TREATMENT OF ABANDONMENT OF LESSOR IM-** 10 **PROVEMENTS AT TERMINATION OF LEASE.**

11 (a) *IN GENERAL.*—Paragraph (8) of section 168(i) is
 12 amended to read as follows:

13 “(8) *TREATMENT OF LEASEHOLD IMPROVE-*
 14 *MENTS.*—

15 “(A) *IN GENERAL.*—In the case of any
 16 building erected (or improvements made) on
 17 leased property, if such building or improvement
 18 is property to which this section applies, the de-
 19 preciation deduction shall be determined under
 20 the provisions of this section.

21 “(B) *TREATMENT OF LESSOR IMPROVE-*
 22 *MENTS WHICH ARE ABANDONED AT TERMINATION*
 23 *OF LEASE.*—An improvement—

1 “(i) which is made by the lessor of
 2 leased property for the lessee of such prop-
 3 erty, and

4 “(ii) which is irrevocably disposed of
 5 or abandoned by the lessor at the termi-
 6 nation of the lease by such lessee,
 7 shall be treated for purposes of determining gain
 8 or loss under this title as disposed of by the les-
 9 sor when so disposed of or abandoned.”

10 (b) *EFFECTIVE DATE.*—Subparagraph (B) of section
 11 168(i)(8) of the Internal Revenue Code of 1986, as added
 12 by the amendment made by subsection (a), shall apply to
 13 improvements disposed of or abandoned after March 13,
 14 1995.

15 **SEC. 11036. INCREASE IN EXPENSE TREATMENT FOR SMALL**
 16 **BUSINESSES.**

17 (a) *GENERAL RULE.*—Paragraph (1) of section 179(b)
 18 (relating to dollar limitation) is amended to read as follows:

19 “(1) *DOLLAR LIMITATION.*—The aggregate cost
 20 which may be taken into account under subsection (a)
 21 for any taxable year shall not exceed the following ap-
 22 plicable amount:

“If the taxable year begins in:	The applicable amount is:
1996	\$19,000
1997	20,000
1998	21,000
1999	22,000
2000	23,000

2001	24,000
2002 or thereafter	25,000.”

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 2 *section (a) shall apply to taxable years beginning after De-*
 3 *cember 31, 1995.*

4 ***Subtitle C—Health Related***
 5 ***Provisions***

6 ***CHAPTER 1—LONG-TERM CARE***
 7 ***PROVISIONS***

8 ***Subchapter A—Long-Term Care Services and***
 9 ***Contracts***

10 ***PART I—GENERAL PROVISIONS***

11 ***SEC. 11041. TREATMENT OF LONG-TERM CARE INSURANCE.***

12 (a) *GENERAL RULE.*—*Chapter 79 (relating to defini-*
 13 *tions) is amended by inserting after section 7702A the fol-*
 14 *lowing new section:*

15 ***“SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE***
 16 ***INSURANCE.***

17 “(a) *IN GENERAL.*—*For purposes of this title—*

18 “(1) *a qualified long-term care insurance con-*
 19 *tract shall be treated as an accident and health insur-*
 20 *ance contract,*

21 “(2) *amounts (other than policyholder dividends,*
 22 *as defined in section 808, or premium refunds) re-*
 23 *ceived under a qualified long-term care insurance*
 24 *contract shall be treated as amounts received for per-*

1 *sonal injuries and sickness and shall be treated as re-*
2 *imbursement for expenses actually incurred for medi-*
3 *cal care (as defined in section 213(d)),*

4 *“(3) any plan of an employer providing coverage*
5 *under a qualified long-term care insurance contract*
6 *shall be treated as an accident and health plan with*
7 *respect to such coverage,*

8 *“(4) except as provided in subsection (d)(3),*
9 *amounts paid for a qualified long-term care insur-*
10 *ance contract providing the benefits described in sub-*
11 *section (b)(2)(A) shall be treated as payments made*
12 *for insurance for purposes of section 213(d)(1)(D),*
13 *and*

14 *“(5) a qualified long-term care insurance con-*
15 *tract shall be treated as a guaranteed renewable con-*
16 *tract subject to the rules of section 816(e).*

17 *“(b) QUALIFIED LONG-TERM CARE INSURANCE CON-*
18 *TRACT.—For purposes of this title—*

19 *“(1) IN GENERAL.—The term ‘qualified long-*
20 *term care insurance contract’ means any insurance*
21 *contract if—*

22 *“(A) the only insurance protection provided*
23 *under such contract is coverage of qualified long-*
24 *term care services,*

1 “(B) such contract does not pay or reim-
2 burse expenses incurred for services or items to
3 the extent that such expenses are reimbursable
4 under title XVIII of the Social Security Act or
5 would be so reimbursable but for the application
6 of a deductible or coinsurance amount,

7 “(C) such contract is guaranteed renewable,

8 “(D) such contract does not provide for a
9 cash surrender value or other money that can
10 be—

11 “(i) paid, assigned, or pledged as col-
12 lateral for a loan, or

13 “(ii) borrowed,
14 other than as provided in subparagraph (E) or
15 paragraph (2)(C),

16 “(E) all refunds of premiums, and all pol-
17 icyholder dividends or similar amounts, under
18 such contract are to be applied as a reduction in
19 future premiums or to increase future benefits,
20 and

21 “(F) such contract meets the requirements of
22 subsection (f).

23 “(2) SPECIAL RULES.—

24 “(A) PER DIEM, ETC. PAYMENTS PER-
25 MITTED.—A contract shall not fail to be de-

1 *scribed in subparagraph (A) or (B) of paragraph*
2 *(1) by reason of payments being made on a per*
3 *diem or other periodic basis without regard to*
4 *the expenses incurred during the period to which*
5 *the payments relate.*

6 “(B) *SPECIAL RULES RELATING TO MEDI-*
7 *CARE.—*

8 “(i) *Paragraph (1)(B) shall not apply*
9 *to expenses which are reimbursable under*
10 *title XVIII of the Social Security Act only*
11 *as a secondary payor.*

12 “(ii) *No provision of law shall be con-*
13 *strued or applied so as to prohibit the offer-*
14 *ing of a qualified long-term care insurance*
15 *contract on the basis that the contract co-*
16 *ordinates its benefits with those provided*
17 *under such title.*

18 “(C) *REFUNDS OF PREMIUMS.—Paragraph*
19 *(1)(E) shall not apply to any refund on the*
20 *death of the insured, or on a complete surrender*
21 *or cancellation of the contract, which cannot ex-*
22 *ceed the aggregate premiums paid under the con-*
23 *tract. Any refund on a complete surrender or*
24 *cancellation of the contract shall be includible in*
25 *gross income to the extent that any deduction or*

1 *exclusion was allowable with respect to the pre-*
2 *miums.*

3 “(c) *QUALIFIED LONG-TERM CARE SERVICES.*—*For*
4 *purposes of this section—*

5 “(1) *IN GENERAL.*—*The term ‘qualified long-*
6 *term care services’ means necessary diagnostic, pre-*
7 *ventive, therapeutic, curing, treating, mitigating, and*
8 *rehabilitative services, and maintenance or personal*
9 *care services, which—*

10 “(A) *are required by a chronically ill indi-*
11 *vidual, and*

12 “(B) *are provided pursuant to a plan of*
13 *care prescribed by a licensed health care practi-*
14 *tioner.*

15 “(2) *CHRONICALLY ILL INDIVIDUAL.*—

16 “(A) *IN GENERAL.*—*The term ‘chronically*
17 *ill individual’ means any individual who has*
18 *been certified by a licensed health care practi-*
19 *tioner as—*

20 “(i) *being unable to perform (without*
21 *substantial assistance from another individ-*
22 *ual) at least 2 activities of daily living for*
23 *a period of at least 90 days due to a loss*
24 *of functional capacity or to cognitive im-*
25 *pairment, or*

1 “(ii) having a level of disability simi-
2 lar (as determined by the Secretary in con-
3 sultation with the Secretary of Health and
4 Human Services) to the level of disability
5 described in clause (i).

6 Such term shall not include any individual oth-
7 erwise meeting the requirements of the preceding
8 sentence unless within the preceding 12-month
9 period a licensed health care practitioner has
10 certified that such individual meets such require-
11 ments.

12 “(B) *ACTIVITIES OF DAILY LIVING.*—For
13 purposes of subparagraph (A), each of the follow-
14 ing is an activity of daily living:

15 “(i) *Eating.*

16 “(ii) *Toileting.*

17 “(iii) *Transferring.*

18 “(iv) *Bathing.*

19 “(v) *Dressing.*

20 “(vi) *Continence.*

21 Nothing in this section shall be construed to re-
22 quire a contract to take into account all of the
23 preceding activities of daily living.

24 “(3) *MAINTENANCE OR PERSONAL CARE SERV-*
25 *ICES.*—The term ‘maintenance or personal care serv-

1 *ices’ means any care the primary purpose of which*
2 *is the provision of needed assistance with any of the*
3 *disabilities as a result of which the individual is a*
4 *chronically ill individual (including the protection*
5 *from threats to health and safety due to severe cog-*
6 *nitive impairment).*

7 *“(4) LICENSED HEALTH CARE PRACTITIONER.—*
8 *The term ‘licensed health care practitioner’ means*
9 *any physician (as defined in section 1861(r)(1) of the*
10 *Social Security Act) and any registered professional*
11 *nurse, licensed social worker, or other individual who*
12 *meets such requirements as may be prescribed by the*
13 *Secretary.*

14 *“(d) SPECIAL RULES FOR TREATMENT OF*
15 *INSUREDS.—*

16 *“(1) AGGREGATE PAYMENTS IN EXCESS OF LIM-*
17 *ITS.—*

18 *“(A) IN GENERAL.—If the aggregate amount*
19 *of periodic payments under all qualified long-*
20 *term care insurance contracts with respect to an*
21 *insured for any period exceed the dollar amount*
22 *in effect for such period under subparagraph (C),*
23 *such excess payments shall be treated as made*
24 *for qualified long-term care services only to the*
25 *extent of the costs incurred by the payee (not oth-*

1 *erwise compensated for by insurance or other-*
2 *wise) for qualified long-term care services pro-*
3 *vided during such period for such insured.*

4 “(B) *PERIODIC PAYMENTS.*—*For purposes*
5 *of subparagraph (A), the term ‘periodic pay-*
6 *ment’ means any payment (whether on a peri-*
7 *odic basis or otherwise) made without regard to*
8 *the extent of the costs incurred by the payee for*
9 *qualified long-term care services.*

10 “(C) *DOLLAR AMOUNT.*—*The dollar amount*
11 *in effect under this paragraph shall be \$175 per*
12 *day (or the equivalent amount in the case of*
13 *payments on another periodic basis).*

14 “(D) *INFLATION ADJUSTMENT.*—*In the case*
15 *of a calendar year after 1996, the dollar amount*
16 *contained in subparagraph (C) shall be increased*
17 *at the same time and in the same manner as*
18 *amounts are increased pursuant to section*
19 *213(d)(11).*

20 “(e) *TREATMENT OF COVERAGE PROVIDED AS PART*
21 *OF A LIFE INSURANCE CONTRACT.*—*Except as otherwise*
22 *provided in regulations prescribed by the Secretary, in the*
23 *case of any long-term care insurance coverage (whether or*
24 *not qualified) provided by a rider on a life insurance con-*
25 *tract—*

1 “(1) *IN GENERAL.*—*This section shall apply as*
2 *if the portion of the contract providing such coverage*
3 *is a separate contract.*

4 “(2) *APPLICATION OF 7702.*—*Section 7702(c)(2)*
5 *(relating to the guideline premium limitation) shall*
6 *be applied by increasing the guideline premium limi-*
7 *tation with respect to a life insurance contract, as of*
8 *any date—*

9 “(A) *by the sum of any charges (but not*
10 *premium payments) against the life insurance*
11 *contract’s cash surrender value (within the*
12 *meaning of section 7702(f)(2)(A)) for such cov-*
13 *erage made to that date under the contract, less*

14 “(B) *any such charges the imposition of*
15 *which reduces the premiums paid for the con-*
16 *tract (within the meaning of section 7702(f)(1)).*

17 “(3) *APPLICATION OF SECTION 213.*—*No deduc-*
18 *tion shall be allowed under section 213(a) for charges*
19 *against the life insurance contract’s cash surrender*
20 *value described in paragraph (2), unless such charges*
21 *are includible in income as a result of the application*
22 *of section 72(e)(10) and the rider is a qualified long-*
23 *term care insurance contract under subsection (b).*

24 “(4) *PORTION DEFINED.*—*For purposes of this*
25 *subsection, the term ‘portion’ means only the terms*

1 *and benefits under a life insurance contract that are*
2 *in addition to the terms and benefits under the con-*
3 *tract without regard to the coverage under a qualified*
4 *long-term care insurance contract.”*

5 **(b) RESERVE METHOD.**—*Clause (iii) of section*
6 *807(d)(3)(A) is amended by inserting “(other than a quali-*
7 *fied long-term care insurance contract, as defined in section*
8 *7702B(b))” after “insurance contract”.*

9 **(c) LONG-TERM CARE INSURANCE NOT PERMITTED**
10 **UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING AR-**
11 **RANGEMENTS.**—

12 **(1) CAFETERIA PLANS.**—*Section 125(f) is*
13 *amended by adding at the end the following new sen-*
14 *tence: “Such term shall not include any long-term*
15 *care insurance contract (as defined in section*
16 *4980C).”*

17 **(2) FLEXIBLE SPENDING ARRANGEMENTS.**—*The*
18 *text of section 106 (relating to contributions by em-*
19 *ployer to accident and health plans) is amended to*
20 *read as follows:*

21 **“(a) GENERAL RULE.**—*Except as provided in sub-*
22 *section (b), gross income of an employee does not include*
23 *employer-provided coverage under an accident or health*
24 *plan.*

1 “(b) *INCLUSION OF LONG-TERM CARE BENEFITS PRO-*
2 *VIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—*

3 “(1) *IN GENERAL.—Effective on and after Janu-*
4 *ary 1, 1996, gross income of an employee shall in-*
5 *clude employer-provided coverage for qualified long-*
6 *term care services (as defined in section 7702B(c)) to*
7 *the extent that such coverage is provided through a*
8 *flexible spending or similar arrangement.*

9 “(2) *FLEXIBLE SPENDING ARRANGEMENT.—For*
10 *purposes of this subsection, a flexible spending ar-*
11 *rangement is a benefit program which provides em-*
12 *ployees with coverage under which—*

13 “(A) *specified incurred expenses may be re-*
14 *imbursed (subject to reimbursement maximums*
15 *and other reasonable conditions), and*

16 “(B) *the maximum amount of reimburse-*
17 *ment which is reasonably available to a partici-*
18 *part for such coverage is less than 500 percent*
19 *of the value of such coverage.*

20 *In the case of an insured plan, the maximum amount*
21 *reasonably available shall be determined on the basis*
22 *of the underlying coverage.”*

23 “(d) *CONTINUATION COVERAGE EXCISE TAX NOT TO*
24 *APPLY.—Subsection (f) of section 4980B is amended by*
25 *adding at the end the following new paragraph:*

1 “(9) *CONTINUATION OF LONG-TERM CARE COV-*
2 *ERAGE NOT REQUIRED.*—*A group health plan shall*
3 *not be treated as failing to meet the requirements of*
4 *this subsection solely by reason of failing to provide*
5 *coverage under any qualified long-term care insur-*
6 *ance contract (as defined in section 7702B(b)).*”

7 *(e) AMOUNTS PAID TO RELATIVES TREATED AS NOT*
8 *PAID FOR MEDICAL CARE.*—*Section 213(d) is amended by*
9 *adding at the end the following new paragraph:*

10 “(10) *CERTAIN PAYMENTS TO RELATIVES TREAT-*
11 *ED AS NOT PAID FOR MEDICAL CARE.*—*An amount*
12 *paid for a qualified long-term care service (as defined*
13 *in section 7702B(c)) provided to an individual shall*
14 *be treated as not paid for medical care if such service*
15 *is provided—*

16 “(A) *by a relative (directly or through a*
17 *partnership, corporation, or other entity) unless*
18 *the relative is a licensed professional with respect*
19 *to such services, or*

20 “(B) *by a corporation or partnership which*
21 *is related (within the meaning of section 267(b)*
22 *or 707(b)) to the individual.*

23 *For purposes of this paragraph, the term ‘relative’*
24 *means an individual bearing a relationship to the in-*
25 *dividual which is described in any of paragraphs (1)*

1 *through (8) of section 152(a). This paragraph shall*
2 *not apply for purposes of section 105(b) with respect*
3 *to reimbursements through insurance.”*

4 (f) *CLERICAL AMENDMENT.*—*The table of sections for*
5 *chapter 79 is amended by inserting after the item relating*
6 *to section 7702A the following new item:*

 “*Sec. 7702B. Treatment of qualified long-term care insurance.*”.

7 (g) *EFFECTIVE DATE.*—

8 (1) *IN GENERAL.*—*The amendments made by*
9 *this section shall apply to contracts issued after De-*
10 *cember 31, 1995.*

11 (2) *CONTINUATION OF EXISTING POLICIES.*—*In*
12 *the case of any contract issued before January 1,*
13 *1996, which met the long-term care insurance require-*
14 *ments of the State in which the contract was sitused*
15 *at the time the contract was issued—*

16 (A) *such contract shall be treated for pur-*
17 *poses of the Internal Revenue Code of 1986 as a*
18 *qualified long-term care insurance contract (as*
19 *defined in section 7702B(b) of such Code), and*

20 (B) *services provided under, or reimbursed*
21 *by, such contract shall be treated for such pur-*
22 *poses as qualified long-term care services (as de-*
23 *fined in section 7702B(c) of such Code).*

24 (3) *EXCHANGES OF EXISTING POLICIES.*—*If,*
25 *after the date of enactment of this Act and before Jan-*

1 uary 1, 1997, a contract providing for long-term care
2 insurance coverage is exchanged solely for a qualified
3 long-term care insurance contract (as defined in sec-
4 tion 7702B(b) of such Code), no gain or loss shall be
5 recognized on the exchange. If, in addition to a quali-
6 fied long-term care insurance contract, money or
7 other property is received in the exchange, then any
8 gain shall be recognized to the extent of the sum of
9 the money and the fair market value of the other
10 property received. For purposes of this paragraph, the
11 cancellation of a contract providing for long-term
12 care insurance coverage and reinvestment of the can-
13 cellation proceeds in a qualified long-term care insur-
14 ance contract within 60 days thereafter shall be treat-
15 ed as an exchange.

16 (4) *ISSUANCE OF CERTAIN RIDERS PER-*
17 *MITTED.*—For purposes of applying sections 101(f),
18 7702, and 7702A of the Internal Revenue Code of
19 1986 to any contract—

20 (A) *the issuance of a rider which is treated*
21 *as a qualified long-term care insurance contract*
22 *under section 7702B, and*

23 (B) *the addition of any provision required*
24 *to conform any other long-term care rider to be*
25 *so treated,*

1 *shall not be treated as a modification or material*
2 *change of such contract.*

3 **SEC. 11042. QUALIFIED LONG-TERM CARE SERVICES TREAT-**
4 **ED AS MEDICAL CARE.**

5 (a) *GENERAL RULE.*—*Paragraph (1) of section 213(d)*
6 *(defining medical care) is amended by striking “or” at the*
7 *end of subparagraph (B), by redesignating subparagraph*
8 *(C) as subparagraph (D), and by inserting after subpara-*
9 *graph (B) the following new subparagraph:*

10 *“(C) for qualified long-term care services*
11 *(as defined in section 7702B(c)), or”.*

12 (b) *TECHNICAL AMENDMENTS.*—

13 (1) *Subparagraph (D) of section 213(d)(1) (as*
14 *redesignated by subsection (a)) is amended by strik-*
15 *ing “subparagraphs (A) and (B)” and inserting “sub-*
16 *paragraphs (A), (B), and (C)”.*

17 (2)(A) *Paragraph (1) of section 213(d) is*
18 *amended by adding at the end the following new flush*
19 *sentence:*

20 *“In the case of a qualified long-term care insurance*
21 *contract (as defined in section 7702B(b)), only eligi-*
22 *ble long-term care premiums (as defined in para-*
23 *graph (11)) shall be taken into account under sub-*
24 *paragraph (D).”*

1 (B) Subsection (d) of section 213 is amended by
 2 adding at the end the following new paragraph:

3 “(11) *ELIGIBLE LONG-TERM CARE PREMIUMS.*—

4 “(A) *IN GENERAL.*—For purposes of this
 5 section, the term ‘eligible long-term care pre-
 6 miums’ means the amount paid during a taxable
 7 year for any qualified long-term care insurance
 8 contract (as defined in section 7702B(b)) cover-
 9 ing an individual, to the extent such amount
 10 does not exceed the limitation determined under
 11 the following table:

“In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	\$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

12 “(B) *INDEXING.*—

13 “(i) *IN GENERAL.*—In the case of any
 14 taxable year beginning in a calendar year
 15 after 1996, each dollar amount contained in
 16 subparagraph (A) shall be increased by the
 17 medical care cost adjustment of such
 18 amount for such calendar year. If any in-
 19 crease determined under the preceding sen-
 20 tence is not a multiple of \$10, such increase

1 *shall be rounded to the nearest multiple of*
2 *\$10.*

3 “(ii) *MEDICAL CARE COST ADJUST-*
4 *MENT.—For purposes of clause (i), the med-*
5 *ical care cost adjustment for any calendar*
6 *year is the percentage (if any) by which—*

7 “(I) *the medical care component*
8 *of the Consumer Price Index (as de-*
9 *fined in section 1(f)(5)) for August of*
10 *the preceding calendar year, exceeds*

11 “(II) *such component for August*
12 *of 1995.*

13 *The Secretary shall, in consultation with*
14 *the Secretary of Health and Human Serv-*
15 *ices, prescribe an adjustment which the Sec-*
16 *retary determines is more appropriate for*
17 *purposes of this paragraph than the adjust-*
18 *ment described in the preceding sentence,*
19 *and the adjustment so prescribed shall*
20 *apply in lieu of the adjustment described in*
21 *the preceding sentence.”*

22 (3) *Paragraph (6) of section 213(d) is amend-*
23 *ed—*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 1995.*

4 ***SEC. 11044. EXCEPTION FROM PENALTY TAX FOR AMOUNTS***
5 ***WITHDRAWN FROM CERTAIN RETIREMENT***
6 ***PLANS FOR QUALIFIED LONG-TERM CARE IN-***
7 ***SURANCE.***

8 (a) *IN GENERAL.*—*Paragraph (2) of section 72(t) is*
9 *amended by adding at the end the following new subpara-*
10 *graph:*

11 “(F) *PREMIUMS FOR QUALIFIED LONG-*
12 *TERM CARE INSURANCE CONTRACTS.*—*Distribu-*
13 *tions to an individual from an individual retire-*
14 *ment plan, or from amounts attributable to em-*
15 *ployer contributions made pursuant to elective*
16 *deferrals described in subparagraph (A) or (C) of*
17 *section 402(g)(3), to the extent such distributions*
18 *do not exceed the premiums for a qualified long-*
19 *term care insurance contract (as defined in sec-*
20 *tion 7702B(b)) for such individual or the spouse*
21 *of such individual. In applying subparagraph*
22 *(B), such premiums shall be treated as amounts*
23 *not paid for medical care.”*

24 (b) *DISTRIBUTIONS PERMITTED FROM CERTAIN*
25 *PLANS TO PAY LONG-TERM CARE PREMIUMS.*—

1 (1) Section 401(k)(2)(B)(i) is amended by strik-
2 ing “or” at the end of subclause (III), by striking
3 “and” at the end of subclause (IV) and inserting
4 “or”, and by inserting after subclause (IV) the follow-
5 ing new subclause:

6 “(V) the date distributions for
7 premiums for a long-term care insur-
8 ance contract (as defined in section
9 7702B(b)) for coverage of such individ-
10 ual or the spouse of such individual
11 are made, and”.

12 (2) Section 403(b)(11) is amended by striking
13 “or” at the end of subparagraph (A), by striking the
14 period at the end of subparagraph (B) and inserting
15 “, or”, and by inserting after subparagraph (B) the
16 following new subparagraph:

17 “(C) for the payment of premiums for a
18 long-term care insurance contract (as defined in
19 section 7702B(b)) for coverage of the employee or
20 the spouse of the employee.”

21 (3) Subparagraph (A) of section 457(d)(1) is
22 amended by striking “or” at the end of clause (ii), by
23 striking “and” at the end of clause (iii) and inserting
24 “or”, and by inserting after clause (iii) the following
25 new clause:

1 “(iv) the date distributions for pre-
2 miums for a long-term care insurance con-
3 tract (as defined in section 7702B(b)) for
4 coverage of such individual or the spouse of
5 such individual are made, and”.

6 (c) *EFFECTIVE DATE.*—The amendments made by this
7 section shall apply to payments and distributions after De-
8 cember 31, 1995.

9 **SEC. 11045. REPORTING REQUIREMENTS.**

10 (a) *IN GENERAL.*—Subpart B of part III of subchapter
11 A of chapter 61, as amended by section 11004, is amended
12 by adding at the end the following new section:

13 **“SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.**

14 “(a) *REQUIREMENT OF REPORTING.*—Any person who
15 pays long-term care benefits shall make a return, according
16 to the forms or regulations prescribed by the Secretary, set-
17 ting forth—

18 “(1) the aggregate amount of such benefits paid
19 by such person to any individual during any cal-
20 endar year, and

21 “(2) the name, address, and TIN of such individ-
22 ual.

23 “(b) *STATEMENTS TO BE FURNISHED TO PERSONS*
24 *WITH RESPECT TO WHOM INFORMATION IS REQUIRED.*—
25 Every person required to make a return under subsection

1 (a) shall furnish to each individual whose name is required
2 to be set forth in such return a written statement showing—

3 “(1) the name of the person making the pay-
4 ments, and

5 “(2) the aggregate amount of long-term care ben-
6 efits paid to the individual which are required to be
7 shown on such return.

8 The written statement required under the preceding sen-
9 tence shall be furnished to the individual on or before Janu-
10 ary 31 of the year following the calendar year for which
11 the return under subsection (a) was required to be made.

12 “(c) *LONG-TERM CARE BENEFITS.*—For purposes of
13 this section, the term ‘long-term care benefit’ means any
14 amount paid under a long-term care insurance policy
15 (within the meaning of section 4980C(e)).”.

16 (b) *PENALTIES.*—

17 (1) Subparagraph (B) of section 6724(d)(1), as
18 amended by section 11004, is amended by redesignat-
19 ing clauses (x) through (xv) as clauses (xi) through
20 (xvi), respectively, and by inserting after clause (ix)
21 the following new clause:

22 “(x) section 6050R (relating to certain
23 long-term care benefits),”.

24 (2) Paragraph (2) of section 6724(d), as amend-
25 ed by section 11004, is amended by redesignating sub-

1 paragraphs (R) through (U) as subparagraphs (S)
2 through (V), respectively, and by inserting after sub-
3 paragraph (P) the following new subparagraph:

4 “(R) section 6050R(b) (relating to certain
5 long-term care benefits),”.

6 (c) *CLERICAL AMENDMENT.*—The table of sections for
7 subpart B of part III of subchapter A of chapter 61 is
8 amended by adding at the end the following new item:

“Sec. 6050R. Certain long-term care benefits.”

9 (d) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to benefits paid after December 31, 1995.

11 **PART II—CONSUMER PROTECTION PROVISIONS**

12 **SEC. 11051. POLICY REQUIREMENTS.**

13 Section 7702B (as added by section 11041) is amended
14 by adding at the end the following new subsection:

15 “(f) *CONSUMER PROTECTION PROVISIONS.*—

16 “(1) *IN GENERAL.*—The requirements of this sub-
17 section are met with respect to any contract if any
18 long-term care insurance policy issued under the con-
19 tract meets—

20 “(A) the requirements of the model regula-
21 tion and model Act described in paragraph (2),

22 “(B) the disclosure requirement of para-
23 graph (3), and

24 “(C) the requirements relating to
25 nonforfeitability under paragraph (4).

1 “(2) *REQUIREMENTS OF MODEL REGULATION*
2 *AND ACT.*—

3 “(A) *IN GENERAL.*—*The requirements of*
4 *this paragraph are met with respect to any pol-*
5 *icy if such policy meets—*

6 “(i) *MODEL REGULATION.*—*The follow-*
7 *ing requirements of the model regulation:*

8 “(I) *Section 7A (relating to guar-*
9 *anteed renewal or noncancellability),*
10 *and the requirements of section 6B of*
11 *the model Act relating to such section*
12 *7A.*

13 “(II) *Section 7B (relating to pro-*
14 *hibitions on limitations and exclu-*
15 *sions).*

16 “(III) *Section 7C (relating to ex-*
17 *tension of benefits).*

18 “(IV) *Section 7D (relating to con-*
19 *tinuation or conversion of coverage).*

20 “(V) *Section 7E (relating to dis-*
21 *continuance and replacement of poli-*
22 *cies).*

23 “(VI) *Section 8 (relating to unin-*
24 *tentional lapse).*

1 “(VII) Section 9 (relating to dis-
2 closure), other than section 9F thereof.

3 “(VIII) Section 10 (relating to
4 prohibitions against post-claims under-
5 writing).

6 “(IX) Section 11 (relating to min-
7 imum standards).

8 “(X) Section 12 (relating to re-
9 quirement to offer inflation protection),
10 except that any requirement for a sig-
11 nature on a rejection of inflation pro-
12 tection shall permit the signature to be
13 on an application or on a separate
14 form.

15 “(XI) Section 23 (relating to pro-
16 hibition against preexisting conditions
17 and probationary periods in replace-
18 ment policies or certificates).

19 “(ii) MODEL ACT.—The following re-
20 quirements of the model Act:

21 “(I) Section 6C (relating to pre-
22 existing conditions).

23 “(II) Section 6D (relating to
24 prior hospitalization).

1 “(B) *DEFINITIONS.*—*For purposes of this*
2 *paragraph—*

3 “(i) *MODEL PROVISIONS.*—*The terms*
4 *‘model regulation’ and ‘model Act’ mean the*
5 *long-term care insurance model regulation,*
6 *and the long-term care insurance model Act,*
7 *respectively, promulgated by the National*
8 *Association of Insurance Commissioners (as*
9 *adopted as of January 1993).*

10 “(ii) *COORDINATION.*—*Any provision*
11 *of the model regulation or model Act listed*
12 *under clause (i) or (ii) of subparagraph (A)*
13 *shall be treated as including any other pro-*
14 *vision of such regulation or Act necessary to*
15 *implement the provision.*

16 “(3) *DISCLOSURE REQUIREMENT.*—*The require-*
17 *ment of this paragraph is met with respect to any*
18 *policy if such policy meets the requirements of section*
19 *4980C(d)(1).*

20 “(4) *NONFORFEITURE REQUIREMENTS.*—

21 “(A) *IN GENERAL.*—*The requirements of*
22 *this paragraph are met with respect to any level*
23 *premium long-term care insurance policy, if the*
24 *issuer of such policy offers to the policyholder,*
25 *including any group policyholder, a*

1 *nonforfeiture provision meeting the requirements*
2 *of subparagraph (B).*

3 “(B) *REQUIREMENTS OF PROVISION.—The*
4 *nonforfeiture provision required under subpara-*
5 *graph (A) shall meet the following requirements:*

6 “(i) *The nonforfeiture provision shall*
7 *be appropriately captioned.*

8 “(ii) *The nonforfeiture provision shall*
9 *provide for a benefit available in the event*
10 *of a default in the payment of any pre-*
11 *miums and the amount of the benefit may*
12 *be adjusted subsequent to being initially*
13 *granted only as necessary to reflect changes*
14 *in claims, persistency, and interest as re-*
15 *flected in changes in rates for premium*
16 *paying policies approved by the Secretary*
17 *for the same policy form.*

18 “(iii) *The nonforfeiture provision shall*
19 *provide at least one of the following:*

20 “(I) *Reduced paid-up insurance.*

21 “(II) *Extended term insurance.*

22 “(III) *Shortened benefit period.*

23 “(IV) *Other similar offerings ap-*
24 *proved by the Secretary.*

1 “(5) *LONG-TERM CARE INSURANCE POLICY DE-*
2 *FINED.*—For purposes of this subsection, the term
3 ‘long-term care insurance policy’ has the meaning
4 given such term by section 4980C(e).”.

5 **SEC. 11052. REQUIREMENTS FOR ISSUERS OF LONG-TERM**
6 **CARE INSURANCE POLICIES.**

7 (a) *IN GENERAL.*—Chapter 43 is amended by adding
8 at the end the following new section:

9 **“SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM**
10 **CARE INSURANCE POLICIES.**

11 “(a) *GENERAL RULE.*—There is hereby imposed on
12 any person failing to meet the requirements of subsection
13 (c) or (d) a tax in the amount determined under subsection
14 (b).

15 “(b) *AMOUNT.*—

16 “(1) *IN GENERAL.*—The amount of the tax im-
17 posed by subsection (a) shall be \$100 per policy for
18 each day any requirements of subsection (c) or (d) are
19 not met with respect to each long-term care insurance
20 policy.

21 “(2) *WAIVER.*—In the case of a failure which is
22 due to reasonable cause and not to willful neglect, the
23 Secretary may waive part or all of the tax imposed
24 by subsection (a) to the extent that payment of the tax
25 would be excessive relative to the failure involved.

1 “(c) *RESPONSIBILITIES.*—*The requirements of this*
2 *subsection are as follows:*

3 “(1) *REQUIREMENTS OF MODEL PROVISIONS.*—

4 “(A) *MODEL REGULATION.*—*The following*
5 *requirements of the model regulation must be*
6 *met:*

7 “(i) *Section 13 (relating to application*
8 *forms and replacement coverage).*

9 “(ii) *Section 14 (relating to reporting*
10 *requirements), except that the issuer shall*
11 *also report at least annually the number of*
12 *claims denied during the reporting period*
13 *for each class of business (expressed as a*
14 *percentage of claims denied), other than*
15 *claims denied for failure to meet the wait-*
16 *ing period or because of any applicable pre-*
17 *existing condition.*

18 “(iii) *Section 20 (relating to filing re-*
19 *quirements for marketing).*

20 “(iv) *Section 21 (relating to standards*
21 *for marketing), including inaccurate com-*
22 *pletion of medical histories, other than sec-*
23 *tions 21C(1) and 21C(6) thereof, except*
24 *that—*

1 “(I) in addition to such require-
2 ments, no person shall, in selling or of-
3 fering to sell a long-term care insur-
4 ance policy, misrepresent a material
5 fact; and

6 “(II) no such requirements shall
7 include a requirement to inquire or
8 identify whether a prospective appli-
9 cant or enrollee for long-term care in-
10 surance has accident and sickness in-
11 surance.

12 “(v) Section 22 (relating to appro-
13 priateness of recommended purchase).

14 “(vi) Section 24 (relating to standard
15 format outline of coverage).

16 “(vii) Section 25 (relating to require-
17 ment to deliver shopper’s guide).

18 “(B) MODEL ACT.—The following require-
19 ments of the model Act must be met:

20 “(i) Section 6F (relating to right to re-
21 turn), except that such section shall also
22 apply to denials of applications and any
23 refund shall be made within 30 days of the
24 return or denial.

1 “(ii) Section 6G (relating to outline of
2 coverage).

3 “(iii) Section 6H (relating to require-
4 ments for certificates under group plans).

5 “(iv) Section 6I (relating to policy
6 summary).

7 “(v) Section 6J (relating to monthly
8 reports on accelerated death benefits).

9 “(vi) Section 7 (relating to incontest-
10 ability period).

11 “(C) DEFINITIONS.—For purposes of this
12 paragraph, the terms ‘model regulation’ and
13 ‘model Act’ have the meanings given such terms
14 by section 7702B(f)(2)(B).

15 “(2) DELIVERY OF POLICY.—If an application
16 for a long-term care insurance policy (or for a certifi-
17 cate under a group long-term care insurance policy)
18 is approved, the issuer shall deliver to the applicant
19 (or policyholder or certificateholder) the policy (or
20 certificate) of insurance not later than 30 days after
21 the date of the approval.

22 “(3) INFORMATION ON DENIALS OF CLAIMS.—If
23 a claim under a long-term care insurance policy is
24 denied, the issuer shall, within 60 days of the date of

1 *a written request by the policyholder or*
 2 *certificateholder (or representative)—*

3 *“(A) provide a written explanation of the*
 4 *reasons for the denial, and*

5 *“(B) make available all information di-*
 6 *rectly relating to such denial.*

7 *“(d) DISCLOSURE.—The requirements of this sub-*
 8 *section are met if the issuer of a long-term care insurance*
 9 *policy discloses in such policy and in the outline of coverage*
 10 *required under subsection (c)(1)(B)(ii) that the policy is in-*
 11 *tended to be a qualified long-term care insurance contract*
 12 *under section 7702B(b).*

13 *“(e) LONG-TERM CARE INSURANCE POLICY DE-*
 14 *FINED.—For purposes of this section, the term ‘long-term*
 15 *care insurance policy’ means any product which is adver-*
 16 *tised, marketed, or offered as long-term care insurance.”.*

17 *(b) CONFORMING AMENDMENT.—The table of sections*
 18 *for chapter 43 is amended by adding at the end the follow-*
 19 *ing new item:*

“Sec. 4980C. Requirements for issuers of long-term care insurance policies.”.

20 ***SEC. 11053. COORDINATION WITH STATE REQUIREMENTS.***

21 *Nothing in this part shall prevent a State from estab-*
 22 *lishing, implementing, or continuing in effect standards re-*
 23 *lated to the protection of policyholders of long-term care in-*
 24 *surance policies (as defined in section 4980C(e) of the Inter-*

1 *nal Revenue Code of 1986), if such standards are not in*
 2 *conflict with or inconsistent with the standards established*
 3 *under such Code.*

4 **SEC. 11054. EFFECTIVE DATES.**

5 (a) *IN GENERAL.*—*The provisions of, and amendments*
 6 *made by, this part shall apply to contracts issued after De-*
 7 *cember 31, 1995. The provisions of section 11041(g) of this*
 8 *Act (relating to transition rule) shall apply to such con-*
 9 *tracts.*

10 (b) *ISSUERS.*—*The amendments made by section*
 11 *11052 shall apply to actions taken after December 31, 1995.*

12 **Subchapter B—Treatment of Accelerated**
 13 **Death Benefits**

14 **SEC. 11061. TREATMENT OF ACCELERATED DEATH BENE-**
 15 **FITS BY RECIPIENT.**

16 (a) *IN GENERAL.*—*Section 101 (relating to certain*
 17 *death benefits) is amended by adding at the end the follow-*
 18 *ing new subsection:*

19 “(g) *TREATMENT OF CERTAIN ACCELERATED DEATH*
 20 *BENEFITS.*—

21 “(1) *IN GENERAL.*—*For purposes of this section,*
 22 *the following amounts shall be treated as an amount*
 23 *paid by reason of the death of an insured:*

1 “(A) *Any amount received under a life in-*
2 *surance contract on the life of an insured who is*
3 *a terminally ill individual.*

4 “(B) *Any amount received under a life in-*
5 *surance contract on the life of an insured who is*
6 *a chronically ill individual (as determined in*
7 *such manner as the Secretary may prescribe) but*
8 *only if such amount is received under a rider or*
9 *other provision of such contract which is treated*
10 *as a qualified long-term care insurance contract*
11 *under section 7702B.*

12 “(2) *TREATMENT OF VIATICAL SETTLEMENTS.—*

13 “(A) *IN GENERAL.—In the case of a life in-*
14 *surance contract on the life of an insured de-*
15 *scribed in paragraph (1), if—*

16 “(i) *any portion of such contract is*
17 *sold to any viatical settlement provider, or*

18 “(ii) *any portion of the death benefit is*
19 *assigned to such a provider,*

20 *the amount paid for such sale or assignment*
21 *shall be treated as an amount paid under the life*
22 *insurance contract by reason of the death of such*
23 *insured.*

24 “(B) *VIATICAL SETTLEMENT PROVIDER.—*

25 *The term ‘viatical settlement provider’ means*

1 *any person regularly engaged in the trade or*
2 *business of purchasing, or taking assignments of,*
3 *life insurance contracts on the lives of insureds*
4 *described in paragraph (1) if—*

5 “(i) *such person is licensed for such*
6 *purposes in the State in which the insured*
7 *resides, or*

8 “(ii) *in the case of an insured who re-*
9 *sides in a State not requiring the licensing*
10 *of such persons for such purposes—*

11 “(I) *such person meets the re-*
12 *quirements of sections 8 and 9 of the*
13 *Viatical Settlements Model Act of the*
14 *National Association of Insurance*
15 *Commissioners, and*

16 “(II) *meets the requirements of the*
17 *Model Regulations of the National As-*
18 *sociation of Insurance Commissioners*
19 *(relating to standards for evaluation of*
20 *reasonable payments) in determining*
21 *amounts paid by such person in con-*
22 *nection with such purchases or assign-*
23 *ments.*

24 “(3) *DEFINITIONS.—For purposes of this sub-*
25 *section—*

1 “(A) *TERMINALLY ILL INDIVIDUAL*.—The
2 term ‘terminally ill individual’ means an indi-
3 vidual who has been certified by a physician as
4 having an illness or physical condition which
5 can reasonably be expected to result in death in
6 24 months or less after the date of the certifi-
7 cation.

8 “(B) *PHYSICIAN*.—The term ‘physician’ has
9 the meaning given to such term by section
10 1861(r)(1) of the Social Security Act (42 U.S.C.
11 1395x(r)(1)).

12 “(4) *EXCEPTION FOR BUSINESS-RELATED POLI-*
13 *CIES*.—This subsection shall not apply in the case of
14 any amount paid to any taxpayer other than the in-
15 sured if such taxpayer has an insurable interest with
16 respect to the life of the insured by reason of the in-
17 sured being a director, officer, or employee of the tax-
18 payer or by reason of the insured being financially
19 interested in any trade or business carried on by the
20 taxpayer.”

21 “(b) *EFFECTIVE DATE*.—The amendment made by sub-
22 section (a) shall apply to amounts received after December
23 31, 1995.

1 **SEC. 11062. TAX TREATMENT OF COMPANIES ISSUING**
2 **QUALIFIED ACCELERATED DEATH BENEFIT**
3 **RIDERS.**

4 (a) *QUALIFIED ACCELERATED DEATH BENEFIT RID-*
5 *ERS TREATED AS LIFE INSURANCE.*—Section 818 (relating
6 to other definitions and special rules) is amended by adding
7 at the end the following new subsection:

8 “(g) *QUALIFIED ACCELERATED DEATH BENEFIT RID-*
9 *ERS TREATED AS LIFE INSURANCE.*—For purposes of this
10 part—

11 “(1) *IN GENERAL.*—Any reference to a life insur-
12 ance contract shall be treated as including a reference
13 to a qualified accelerated death benefit rider on such
14 contract.

15 “(2) *QUALIFIED ACCELERATED DEATH BENEFIT*
16 *RIDERS.*—For purposes of this subsection, the term
17 ‘qualified accelerated death benefit rider’ means any
18 rider on a life insurance contract if the only pay-
19 ments under the rider are payments meeting the re-
20 quirements of section 101(g).

21 “(3) *EXCEPTION FOR LONG-TERM CARE RID-*
22 *ERS.*—Paragraph (1) shall not apply to any rider
23 which is treated as a long-term care insurance con-
24 tract under section 7702B.”

25 (b) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*The amendment made by this*
2 *section shall take effect on January 1, 1996.*

3 (2) *ISSUANCE OF RIDER NOT TREATED AS MATE-*
4 *RIAL CHANGE.*—*For purposes of applying sections*
5 *101(f), 7702, and 7702A of the Internal Revenue Code*
6 *of 1986 to any contract—*

7 (A) *the issuance of a qualified accelerated*
8 *death benefit rider (as defined in section 818(g)*
9 *of such Code (as added by this Act)), and*

10 (B) *the addition of any provision required*
11 *to conform an accelerated death benefit rider to*
12 *the requirements of such section 818(g),*
13 *shall not be treated as a modification or material*
14 *change of such contract.*

15 **CHAPTER 2—MEDICAL SAVINGS**

16 **ACCOUNTS**

17 **SEC. 11066. MEDICAL SAVINGS ACCOUNTS.**

18 (a) *IN GENERAL.*—*Part VII of subchapter B of chapter*
19 *1 (relating to additional itemized deductions for individ-*
20 *uals) is amended by redesignating section 222 as section*
21 *223 and by inserting after section 221 the following new*
22 *section:*

23 **“SEC. 222. MEDICAL SAVINGS ACCOUNTS.**

24 “(a) *DEDUCTION ALLOWED.*—*In the case of an indi-*
25 *vidual who is an eligible individual for any month during*

1 *the taxable year, there shall be allowed as a deduction for*
2 *the taxable year an amount equal to the aggregate amount*
3 *paid in cash during such taxable year by such individual*
4 *to a medical savings account of such individual.*

5 “(b) *LIMITATIONS.—*

6 “(1) *IN GENERAL.—Except as otherwise provided*
7 *in this subsection, the amount allowable as a deduc-*
8 *tion under subsection (a) to an individual for the tax-*
9 *able year shall not exceed—*

10 “(A) *except as provided in subparagraph*
11 *(B), the lesser of—*

12 “(i) *\$2,000, or*

13 “(ii) *the annual deductible limit for*
14 *any individual covered under the high de-*
15 *ductible health plan, or*

16 “(B) *in the case of a high deductible health*
17 *plan covering the taxpayer and any other eligi-*
18 *ble individual who is the spouse or any depend-*
19 *ent (as defined in section 152) of the taxpayer,*
20 *the lesser of—*

21 “(i) *\$4,000, or*

22 “(ii) *the annual limit under the plan*
23 *on the aggregate amount of deductibles re-*
24 *quired to be paid by all individuals.*

1 *The preceding sentence shall not apply if the spouse*
2 *of such individual is covered under any other high de-*
3 *ductible health plan.*

4 “(2) *SPECIAL RULE FOR MARRIED INDIVID-*
5 *UALS.—*

6 “(A) *IN GENERAL.—This subsection shall be*
7 *applied separately for each married individual.*

8 “(B) *SPECIAL RULE.—If individuals who*
9 *are married to each other are covered under the*
10 *same high deductible health plan, then the*
11 *amounts applicable under paragraph (1)(B)*
12 *shall be divided equally between them unless they*
13 *agree on a different division.*

14 “(3) *COORDINATION WITH EXCLUSION FOR EM-*
15 *PLOYER CONTRIBUTIONS.—No deduction shall be al-*
16 *lowed under this section for any amount paid for any*
17 *taxable year to a medical savings account of an indi-*
18 *vidual if—*

19 “(A) *any amount is paid to any medical*
20 *savings account of such individual which is ex-*
21 *cludable from gross income under section 106(b)*
22 *for such year, or*

23 “(B) *in a case described in paragraph (2),*
24 *any amount is paid to any medical savings ac-*

1 count of either spouse which is so excludable for
2 such year.

3 “(4) *PRORATION OF LIMITATION.*—

4 “(A) *IN GENERAL.*—The limitation under
5 paragraph (1) shall be the sum of the monthly
6 limitations for months during the taxable year
7 that the individual is an eligible individual if—

8 “(i) such individual is not an eligible
9 individual for all months of the taxable
10 year,

11 “(ii) the deductible under the high de-
12 ductible health plan covering such individ-
13 ual is not the same throughout such taxable
14 year, or

15 “(iii) such limitation is determined
16 under paragraph (1)(B) for some but not
17 all months during such taxable year.

18 “(B) *MONTHLY LIMITATION.*—The monthly
19 limitation for any month shall be an amount
20 equal to $\frac{1}{12}$ of the limitation which would (but
21 for this paragraph and paragraph (3)) be deter-
22 mined under paragraph (1) if the facts and cir-
23 cumstances as of the first day of such month that
24 such individual is covered under a high deduct-

1 *ible health plan were true for the entire taxable*
2 *year.*

3 “(5) *DENIAL OF DEDUCTION TO DEPENDENTS.—*
4 *No deduction shall be allowed under this section to*
5 *any individual with respect to whom a deduction*
6 *under section 151 is allowable to another taxpayer for*
7 *a taxable year beginning in the calendar year in*
8 *which such individual’s taxable year begins.*

9 “(c) *DEFINITIONS.—For purposes of this section—*

10 “(1) *ELIGIBLE INDIVIDUAL.—*

11 “(A) *IN GENERAL.—The term ‘eligible indi-*
12 *vidual’ means, with respect to any month, any*
13 *individual—*

14 “(i) *who is covered under a high de-*
15 *ductible health plan as of the 1st day of*
16 *such month, and*

17 “(ii) *who is not, while covered under a*
18 *high deductible health plan, covered under*
19 *any health plan—*

20 “(I) *which is not a high deduct-*
21 *ible health plan, and*

22 “(II) *which provides coverage for*
23 *any benefit which is covered under the*
24 *high deductible health plan.*

1 “(B) *CERTAIN COVERAGE DISREGARDED.*—
2 *Subparagraph (A)(ii) shall be applied without*
3 *regard to—*

4 “(i) *coverage for any benefit provided*
5 *by permitted insurance, and*

6 “(ii) *coverage (whether through insur-*
7 *ance or otherwise) for accidents, disability,*
8 *dental care, vision care, or long-term care.*

9 “(2) *HIGH DEDUCTIBLE HEALTH PLAN.*—*The*
10 *term ‘high deductible health plan’ means a health*
11 *plan which—*

12 “(A) *has an annual deductible limit for*
13 *each individual covered by the plan which is not*
14 *less than \$1,500, and*

15 “(B) *has an annual limit on the aggregate*
16 *amount of deductibles required to be paid with*
17 *respect to all individuals covered by the plan*
18 *which is not less than \$3,000.*

19 *Such term does not include a health plan if substan-*
20 *tially all of its coverage is coverage described in para-*
21 *graph (1)(B).*

22 “(3) *PERMITTED INSURANCE.*—*The term ‘per-*
23 *mitted insurance’ means—*

24 “(A) *Medicare supplemental insurance,*

1 “(B) insurance if substantially all of the
2 coverage provided under such insurance relates
3 to—

4 “(i) liabilities incurred under workers’
5 compensation laws,

6 “(ii) tort liabilities,

7 “(iii) liabilities relating to ownership
8 or use of property, or

9 “(iv) such other similar liabilities as
10 the Secretary may specify by regulations,

11 “(C) insurance for a specified disease or ill-
12 ness, and

13 “(D) insurance paying a fixed amount per
14 day (or other period) of hospitalization.

15 “(d) *MEDICAL SAVINGS ACCOUNT*.—For purposes of
16 this section—

17 “(1) *MEDICAL SAVINGS ACCOUNT*.—The term
18 ‘medical savings account’ means a trust created or or-
19 ganized in the United States exclusively for the pur-
20 pose of paying the qualified medical expenses of the
21 account holder, but only if the written governing in-
22 strument creating the trust meets the following re-
23 quirements:

1 “(A) *Except in the case of a rollover con-*
2 *tribution described in subsection (f)(5), no con-*
3 *tribution will be accepted—*

4 “(i) *unless it is in cash, or*

5 “(ii) *to the extent such contribution,*
6 *when added to previous contributions to the*
7 *trust for the calendar year, exceeds \$4,000.*

8 “(B) *The trustee is a bank (as defined in*
9 *section 408(n)), an insurance company (as de-*
10 *defined in section 816), or another person who*
11 *demonstrates to the satisfaction of the Secretary*
12 *that the manner in which such person will ad-*
13 *minister the trust will be consistent with the re-*
14 *quirements of this section.*

15 “(C) *No part of the trust assets will be in-*
16 *vested in life insurance contracts.*

17 “(D) *The assets of the trust will not be com-*
18 *mingled with other property except in a common*
19 *trust fund or common investment fund.*

20 “(E) *The interest of an individual in the*
21 *balance in his account is nonforfeitable.*

22 “(2) *QUALIFIED MEDICAL EXPENSES.—*

23 “(A) *IN GENERAL.—The term ‘qualified*
24 *medical expenses’ means, with respect to an ac-*
25 *count holder, amounts paid by such holder for*

1 *medical care (as defined in section 213(d)) for*
2 *such individual, the spouse of such individual,*
3 *and any dependent (as defined in section 152) of*
4 *such individual, but only to the extent such*
5 *amounts are not compensated for by insurance*
6 *or otherwise.*

7 “(B) *HEALTH INSURANCE MAY NOT BE PUR-*
8 *CHASED FROM ACCOUNT.—*

9 “(i) *IN GENERAL.—Subparagraph (A)*
10 *shall not apply to any payment for insur-*
11 *ance.*

12 “(ii) *EXCEPTIONS.—Clause (i) shall*
13 *not apply to any expense for coverage*
14 *under—*

15 “(I) *a health plan during any pe-*
16 *riod of continuation coverage required*
17 *under any Federal law,*

18 “(II) *a qualified long-term care*
19 *contract (as defined in section 7702B),*
20 *or*

21 “(III) *a health plan during a pe-*
22 *riod in which the individual is receiv-*
23 *ing unemployment compensation under*
24 *any Federal or State law.*

1 “(3) *ACCOUNT HOLDER.*—*The term ‘account*
2 *holder’ means the individual on whose behalf the med-*
3 *ical savings account was established.*

4 “(4) *CERTAIN RULES TO APPLY.*—*Rules similar*
5 *to the following rules shall apply for purposes of this*
6 *section:*

7 “(A) *Section 219(d)(2) (relating to no de-*
8 *duction for rollovers).*

9 “(B) *Section 219(f)(3) (relating to time*
10 *when contributions deemed made).*

11 “(C) *Except as provided in section 106(b),*
12 *section 219(f)(5) (relating to employer pay-*
13 *ments).*

14 “(D) *Section 408(g) (relating to community*
15 *property laws).*

16 “(E) *Section 408(h) (relating to custodial*
17 *accounts).*

18 “(e) *TAX TREATMENT OF ACCOUNTS.*—

19 “(1) *IN GENERAL.*—*A medical savings account is*
20 *exempt from taxation under this subtitle unless such*
21 *account has ceased to be a medical savings account by*
22 *reason of paragraph (2) or (3). Notwithstanding the*
23 *preceding sentence, any such account is subject to the*
24 *taxes imposed by section 511 (relating to imposition*

1 of tax on unrelated business income of charitable, etc.
2 organizations).

3 “(2) *ACCOUNT TERMINATIONS.*—Rules similar to
4 the rules of paragraphs (2) and (4) of section 408(e)
5 shall apply to medical savings accounts, and any
6 amount treated as distributed under such rules shall
7 be treated as not used to pay qualified medical ex-
8 penses.

9 “(f) *TAX TREATMENT OF DISTRIBUTIONS.*—

10 “(1) *AMOUNTS USED FOR QUALIFIED MEDICAL*
11 *EXPENSES.*—

12 “(A) *IN GENERAL.*—Any amount paid or
13 distributed out of a medical savings account
14 which is used exclusively to pay qualified medi-
15 cal expenses of any account holder (or any
16 spouse or dependent of the holder) shall not be
17 includible in gross income.

18 “(B) *TREATMENT AFTER DEATH OF AC-*
19 *COUNT HOLDER.*—

20 “(i) *TREATMENT IF HOLDER IS*
21 *SPOUSE.*—If, after the death of the account
22 holder, the account holder’s interest is pay-
23 able to (or for the benefit of) the holder’s
24 spouse, the medical savings account shall be

1 *treated as if the spouse were the account*
2 *holder.*

3 “(ii) *TREATMENT IF DESIGNATED*
4 *HOLDER IS NOT SPOUSE.—In the case of an*
5 *account holder’s interest in a medical sav-*
6 *ings account which is payable to (or for the*
7 *benefit of) any person other than such hold-*
8 *er’s spouse upon the death of such holder—*

9 “(I) *such account shall cease to be*
10 *a medical savings account as of the*
11 *date of death, and*

12 “(II) *an amount equal to the fair*
13 *market value of the assets in such ac-*
14 *count on such date shall be includible*
15 *if such person is not the estate of such*
16 *holder, in such person’s gross income*
17 *for the taxable year which includes*
18 *such date, or if such person is the es-*
19 *tate of such holder, in such holder’s*
20 *gross income for the last taxable year*
21 *of such holder.*

22 “(2) *INCLUSION OF AMOUNTS NOT USED FOR*
23 *QUALIFIED MEDICAL EXPENSES.—*

24 “(A) *IN GENERAL.—Any amount paid or*
25 *distributed out of a medical savings account*

1 *which is not used exclusively to pay the qualified*
2 *medical expenses of the account holder or of the*
3 *spouse or dependents of such holder shall be in-*
4 *cluded in the gross income of such holder.*

5 “(B) *SPECIAL RULES.—For purposes of*
6 *subparagraph (A)—*

7 “(i) *all medical savings accounts of the*
8 *account holder shall be treated as 1 account,*

9 “(ii) *all payments and distributions*
10 *during any taxable year shall be treated as*
11 *1 distribution, and*

12 “(iii) *any distribution of property*
13 *shall be taken into account at its fair mar-*
14 *ket value on the date of the distribution.*

15 “(3) *EXCESS CONTRIBUTIONS RETURNED BE-*
16 *FORE DUE DATE OF RETURN.—Paragraph (2) shall*
17 *not apply to the distribution of any contribution paid*
18 *during a taxable year to a medical savings account*
19 *to the extent that such contribution exceeds the*
20 *amount under subsection (d)(1)(A)(ii) if—*

21 “(A) *such distribution is received by the in-*
22 *dividual on or before the last day prescribed by*
23 *law (including extensions of time) for filing such*
24 *individual’s return for such taxable year, and*

1 “(B) such distribution is accompanied by
2 the amount of net income attributable to such ex-
3 cess contribution.

4 Any net income described in subparagraph (B) shall
5 be included in the gross income of the individual for
6 the taxable year in which it is received.

7 “(4) PENALTY FOR DISTRIBUTIONS NOT USED
8 FOR QUALIFIED MEDICAL EXPENSES.—

9 “(A) IN GENERAL.—The tax imposed by
10 this chapter on the account holder for any tax-
11 able year in which there is a payment or dis-
12 tribution from a medical savings account of such
13 holder which is includible in gross income under
14 paragraph (2) shall be increased by 10 percent
15 of the amount which is so includible.

16 “(B) EXCEPTION FOR DISABILITY OR
17 DEATH.—Subparagraph (A) shall not apply if
18 the payment or distribution is made after the ac-
19 count holder becomes disabled within the mean-
20 ing of section 72(m)(7) or dies.

21 “(C) EXCEPTION FOR DISTRIBUTIONS
22 AFTER AGE 59½.—Subparagraph (A) shall not
23 apply to any payment or distribution after the
24 date on which the account holder attains age
25 59½.

1 “(5) *ROLLOVER CONTRIBUTION.*—*An amount is*
2 *described in this paragraph as a rollover contribution*
3 *if it meets the requirements of subparagraphs (A) and*
4 *(B).*

5 “(A) *IN GENERAL.*—*Paragraph (2) shall*
6 *not apply to any amount paid or distributed*
7 *from a medical savings account to the account*
8 *holder to the extent the amount received is paid*
9 *into a medical savings account for the benefit of*
10 *such holder not later than the 60th day after the*
11 *day on which the holder receives the payment or*
12 *distribution.*

13 “(B) *LIMITATION.*—*This paragraph shall*
14 *not apply to any amount described in subpara-*
15 *graph (A) received by an individual from a med-*
16 *ical savings account if, at any time during the*
17 *1-year period ending on the day of such receipt,*
18 *such individual received any other amount de-*
19 *scribed in subparagraph (A) from a medical sav-*
20 *ings account which was not includible in the in-*
21 *dividual’s gross income because of the applica-*
22 *tion of this paragraph.*

23 “(6) *COORDINATION WITH MEDICAL EXPENSE*
24 *DEDUCTION.*—*For purposes of determining the*
25 *amount of the deduction under section 213, any pay-*

1 *ment or distribution out of a medical savings account*
2 *for qualified medical expenses shall not be treated as*
3 *an expense paid for medical care.*

4 “(7) *TRANSFER OF ACCOUNT INCIDENT TO DI-*
5 *VORCE.—The transfer of an individual’s interest in a*
6 *medical savings account to an individual’s spouse or*
7 *former spouse under a divorce or separation instru-*
8 *ment described in subparagraph (A) of section*
9 *71(b)(2) shall not be considered a taxable transfer*
10 *made by such individual notwithstanding any other*
11 *provision of this subtitle, and such interest shall, after*
12 *such transfer, be treated as a medical savings account*
13 *with respect to which the spouse is the account holder.*

14 “(g) *COST-OF-LIVING ADJUSTMENT.—*

15 “(1) *IN GENERAL.—In the case of any taxable*
16 *year beginning in a calendar year after 1996, each*
17 *dollar amount in subsection (b)(1), (c)(2), or*
18 *(d)(1)(A) shall be increased by an amount equal to—*

19 “(A) *such dollar amount, multiplied by*

20 “(B) *the medical care cost adjustment for*
21 *such calendar year.*

22 *If any increase under the preceding sentence is not a*
23 *multiple of \$50, such increase shall be rounded to the*
24 *nearest multiple of \$50.*

1 “(2) *MEDICAL CARE COST ADJUSTMENT.*—For
2 purposes of paragraph (1), the medical care cost ad-
3 justment for any calendar year is the percentage (if
4 any) by which—

5 “(A) the medical care component of the
6 Consumer Price Index (as defined in section
7 1(f)(5)) for August of the preceding calendar
8 year, exceeds

9 “(B) such component for August of 1995.

10 “(h) *REPORTS.*—The Secretary may require the trustee
11 of a medical savings account to make such reports regarding
12 such account to the Secretary and to the account holder with
13 respect to contributions, distributions, and such other mat-
14 ters as the Secretary determines appropriate. The reports
15 required by this subsection shall be filed at such time and
16 in such manner and furnished to such individuals at such
17 time and in such manner as may be required by those regu-
18 lations.”

19 (b) *DEDUCTION ALLOWED WHETHER OR NOT INDIVID-*
20 *UAL ITEMIZES OTHER DEDUCTIONS.*—Subsection (a) of
21 section 62 is amended by inserting after paragraph (18)
22 the following new paragraph:

23 “(19) *MEDICAL SAVINGS ACCOUNTS.*—The deduc-
24 tion allowed by section 222.”

1 (c) *EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO*
2 *MEDICAL SAVINGS ACCOUNTS.*—

3 (1) *EXCLUSION FROM INCOME TAX.*—*Section 106*
4 *(relating to contributions by employer to accident and*
5 *health plans), as amended by this Act, is amended—*

6 (A) *by adding at the end the following new*
7 *subsection:*

8 “(c) *CONTRIBUTIONS TO MEDICAL SAVINGS AC-*
9 *COUNTS.*—

10 “(1) *IN GENERAL.*—*In the case of an employee*
11 *who is an eligible individual, gross income does not*
12 *include amounts contributed by such employee’s em-*
13 *ployer to any medical savings account of such em-*
14 *ployee.*

15 “(2) *COORDINATION WITH DEDUCTION LIMITA-*
16 *TION.*—*The amount excluded from the gross income of*
17 *an employee under this subsection for any taxable*
18 *year shall not exceed the limitation under section*
19 *222(b)(1) (determined without regard to this sub-*
20 *section) which is applicable to such employee for such*
21 *taxable year.*

22 “(3) *NO CONSTRUCTIVE RECEIPT.*—*No amount*
23 *shall be included in the gross income of any employee*
24 *solely because the employee may choose between the*
25 *contributions referred to in paragraph (1) and em-*

1 *employer contributions to another health plan of the em-*
2 *ployer.*

3 “(4) *SPECIAL RULE FOR DEDUCTION OF EM-*
4 *PLOYER CONTRIBUTIONS.—Any employer contribution*
5 *to a medical savings account, if otherwise allowable*
6 *as a deduction under this chapter, shall be allowed*
7 *only for the taxable year in which paid.*

8 “(5) *DEFINITIONS.—For purposes of this sub-*
9 *section, the terms ‘eligible individual’ and ‘medical*
10 *savings account’ have the respective meanings given*
11 *to such terms by section 222”, and*

12 *(B) by striking “subsection (b)” in sub-*
13 *section (a) and inserting “this subsection”.*

14 (2) *EXCLUSION FROM WITHHOLDING TAX.—Sub-*
15 *section (a) of section 3401 is amended by striking*
16 *“or” at the end of paragraph (19), by striking the pe-*
17 *riod at the end of paragraph (20) and inserting “;*
18 *or”, and by inserting after paragraph (20) the follow-*
19 *ing new paragraph:*

20 “(21) *any payment made to or for the benefit of*
21 *an employee if at the time of such payment it is rea-*
22 *sonable to believe that the employee will be able to ex-*
23 *clude such payment from income under section*
24 *106(b).”*

1 (d) *MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT*
2 *AVAILABLE UNDER CAFETERIA PLANS.*—Subsection (f) of
3 *section 125 is amended by inserting “106(b),” before “117”.*

4 (e) *EXCLUSION OF MEDICAL SAVINGS ACCOUNTS*
5 *FROM ESTATE TAX.*—Part IV of subchapter A of chapter
6 *11 is amended by adding at the end the following new sec-*
7 *tion:*

8 **“SEC. 2057. MEDICAL SAVINGS ACCOUNTS.**

9 *“For purposes of the tax imposed by section 2001, the*
10 *value of the taxable estate shall be determined by deducting*
11 *from the value of the gross estate an amount equal to the*
12 *value of any medical savings account (as defined in section*
13 *222(d)) included in the gross estate.”*

14 (f) *TAX ON EXCESS CONTRIBUTIONS.*—Section 4973
15 *(relating to tax on excess contributions to individual retire-*
16 *ment accounts, certain section 403(b) contracts, and certain*
17 *individual retirement annuities) is amended—*

18 (1) *by inserting “**medical savings ac-***
19 ***counts,**” after “**accounts,**” in the heading of such*
20 *section,*

21 (2) *by striking “or” at the end of paragraph (1)*
22 *of subsection (a),*

23 (3) *by redesignating paragraph (2) of subsection*
24 *(a) as paragraph (3) and by inserting after para-*
25 *graph (1) the following:*

1 “(2) a medical savings account (within the
2 meaning of section 222(d)), or”, and

3 (4) by adding at the end the following new sub-
4 section:

5 “(d) *EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS*
6 *ACCOUNTS.*—For purposes of this section, in the case of a
7 medical savings account (within the meaning of section
8 222(d)), the term ‘excess contributions’ means the sum of—

9 “(1) the amount by which the amount contrib-
10 uted for the taxable year to the account exceeds the
11 amount which may be contributed to the account
12 under section 222(d)(1)(B)(ii) for such taxable year,
13 and

14 “(2) the amount determined under this sub-
15 section for the preceding taxable year, reduced by the
16 sum of distributions out of the account included in
17 gross income under section 222(f) (2) or (3) and the
18 excess (if any) of the maximum amount allowable as
19 a deduction under section 222 for the taxable year
20 over the amount contributed.

21 *For purposes of this subsection, any contribution which is*
22 *distributed out of the medical savings account in a distribu-*
23 *tion to which section 222(f)(3) applies shall be treated as*
24 *an amount not contributed.”*

25 (g) *TAX ON PROHIBITED TRANSACTIONS.*—

1 (1) *Section 4975 (relating to tax on prohibited*
2 *transactions) is amended by adding at the end of sub-*
3 *section (c) the following new paragraph:*

4 “(4) *SPECIAL RULE FOR MEDICAL SAVINGS AC-*
5 *COUNTS.—An individual for whose benefit a medical*
6 *savings account (within the meaning of section*
7 *222(d)) is established shall be exempt from the tax*
8 *imposed by this section with respect to any trans-*
9 *action concerning such account (which would other-*
10 *wise be taxable under this section) if, with respect to*
11 *such transaction, the account ceases to be a medical*
12 *savings account by reason of the application of sec-*
13 *tion 222(e)(2) to such account.”*

14 (2) *Paragraph (1) of section 4975(e) is amended*
15 *to read as follows:*

16 “(1) *PLAN.—For purposes of this section, the*
17 *term ‘plan’ means—*

18 “(A) *a trust described in section 401(a)*
19 *which forms a part of a plan, or a plan de-*
20 *scribed in section 403(a), which trust or plan is*
21 *exempt from tax under section 501(a),*

22 “(B) *an individual retirement account de-*
23 *scribed in section 408(a),*

24 “(C) *an individual retirement annuity de-*
25 *scribed in section 408(b),*

1 “(D) a medical savings account described in
2 section 220(d), or

3 “(E) a trust, plan, account, or annuity
4 which, at any time, has been determined by the
5 Secretary to be described in any preceding sub-
6 paragraph of this paragraph.”

7 (h) *FAILURE TO PROVIDE REPORTS ON*
8 *MEDICAREPLUS MSA’S.—*

9 (1) *Subsection (a) of section 6693 (relating to*
10 *failure to provide reports on individual retirement*
11 *accounts or annuities) is amended to read as follows:*

12 “(a) *REPORTS.—*

13 “(1) *IN GENERAL.—If a person required to file*
14 *a report under a provision referred to in paragraph*
15 *(2) fails to file such report at the time and in the*
16 *manner required by such provision, such person shall*
17 *pay a penalty of \$50 for each failure unless it is*
18 *shown that such failure is due to reasonable cause.*

19 “(2) *PROVISIONS.—The provisions referred to in*
20 *this paragraph are—*

21 “(A) *subsections (i) and (l) of section 408*
22 *(relating to individual retirement plans), and*

23 “(B) *section 222(h) (relating to medical*
24 *savings accounts).”*

1 (i) *EXCEPTION FROM CAPITALIZATION OF POLICY AC-*
 2 *QUISITION EXPENSES.*—Subparagraph (B) of section
 3 848(e)(1) (defining specified insurance contract) is amend-
 4 ed by striking “and” at the end of clause (ii), by striking
 5 the period at the end of clause (iii) and inserting “, and”,
 6 and by adding at the end the following new clause:

7 “(iv) any contract which is a medical
 8 savings account (as defined in section
 9 222(d)).”.

10 (j) *CLERICAL AMENDMENT.*—The table of sections for
 11 part VII of subchapter B of chapter 1 is amended by strik-
 12 ing the last item and inserting the following:

 “Sec. 222. Medical savings accounts.
 “Sec. 223. Cross reference.”

13 (k) *EFFECTIVE DATE.*—The amendments made by this
 14 section shall apply to taxable years beginning after Decem-
 15 ber 31, 1995.

16 **CHAPTER 3—INCREASE IN DEDUCTION**
 17 **FOR HEALTH INSURANCE COSTS OF**
 18 **SELF-EMPLOYED INDIVIDUALS**

19 **SEC. 11068. INCREASE IN DEDUCTION FOR HEALTH INSUR-**
 20 **ANCE COSTS OF SELF-EMPLOYED INDIVID-**
 21 **UALS.**

22 (a) *IN GENERAL.*—Paragraph (1) of section 162(l) is
 23 amended to read as follows:

24 “(1) *ALLOWANCE OF DEDUCTION.*—

1 “(A) *IN GENERAL.*—*In the case of an indi-*
 2 *vidual who is an employee within the meaning*
 3 *of section 401(c)(1), there shall be allowed as a*
 4 *deduction under this section an amount equal to*
 5 *the applicable percentage of the amount paid*
 6 *during the taxable year for insurance which con-*
 7 *stitutes medical care for the taxpayer, his spouse,*
 8 *and dependents.*

9 “(B) *APPLICABLE PERCENTAGE.*—*For pur-*
 10 *poses of subparagraph (A), the applicable per-*
 11 *centage shall be determined under the following*
 12 *table:*

“For taxable years beginning in calendar year—	The applicable percentage is—
<i>1996 or 1997</i>	<i>30</i>
<i>1998 or 1999</i>	<i>35</i>
<i>2000 or 2001</i>	<i>40</i>
<i>2002 or thereafter</i>	<i>50.”</i>

13 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 14 *section shall apply to taxable years beginning after Decem-*
 15 *ber 31, 1995.*

16 ***Subtitle D—Estate and Gift***
 17 ***Provisions***

18 ***SEC. 11071. COST-OF-LIVING ADJUSTMENTS RELATING TO***
 19 ***ESTATE AND GIFT TAX PROVISIONS.***

20 (a) *INCREASE IN UNIFIED ESTATE AND GIFT TAX*
 21 *CREDIT.*—

22 (1) *ESTATE TAX CREDIT.*—

1 (A) Subsection (a) of section 2010 (relating
 2 to unified credit against estate tax) is amended
 3 by striking “\$192,800” and inserting “the appli-
 4 cable credit amount”.

5 (B) Section 2010 is amended by redesignat-
 6 ing subsection (c) as subsection (d) and by in-
 7 serting after subsection (b) the following new
 8 subsection:

9 “(c) *APPLICABLE CREDIT AMOUNT.*—For purposes of
 10 this section—

11 “(1) *IN GENERAL.*—The applicable credit
 12 amount is the amount of the tentative tax which
 13 would be determined under the rate schedule set forth
 14 in section 2001(c) if the amount with respect to which
 15 such tentative tax is to be computed were the applica-
 16 ble exclusion amount determined in accordance with
 17 the following table:

<i>“In the case of estates of decedents dying, and gifts made, during:</i>	<i>The applicable exclusion amount is:</i>
1996	\$625,000
1997	\$650,000
1998	\$675,000
1999	\$700,000
2000	\$725,000
2001 or thereafter	\$750,000.

18 “(2) *COST-OF-LIVING ADJUSTMENTS.*—In the
 19 case of any decedent dying, and gift made, in a cal-
 20 endar year after 2001, the \$750,000 amount set forth

1 *in paragraph (1) shall be increased by an amount*
2 *equal to—*

3 *“(A) \$750,000, multiplied by*

4 *“(B) the cost-of-living adjustment deter-*
5 *mined under section 1(f)(3) for such calendar*
6 *year by substituting ‘calendar year 2000’ for*
7 *‘calendar year 1992’ in subparagraph (B) there-*
8 *of.*

9 *If any amount as adjusted under the preceding sen-*
10 *tence is not a multiple of \$10,000, such amount shall*
11 *be rounded to the nearest multiple of \$10,000.”*

12 *(C) Paragraph (1) of section 6018(a) is*
13 *amended by striking “\$600,000” and inserting*
14 *“the applicable exclusion amount in effect under*
15 *section 2010(c) (as adjusted under paragraph (2)*
16 *thereof) for the calendar year which includes the*
17 *date of death”.*

18 *(D) Paragraph (2) of section 2001(c) is*
19 *amended by striking “\$21,040,000” and insert-*
20 *ing “the amount at which the average tax rate*
21 *under this section is 55 percent”.*

22 *(E) Subparagraph (A) of section 2102(c)(3)*
23 *is amended by striking “\$192,800” and inserting*
24 *“the applicable credit amount in effect under sec-*

1 *tion 2010(c) for the calendar year which includes*
2 *the date of death”.*

3 (2) *UNIFIED GIFT TAX CREDIT.*—*Paragraph (1)*
4 *of section 2505(a) is amended by striking “\$192,800”*
5 *and inserting “the applicable credit amount in effect*
6 *under section 2010(c) for such calendar year”.*

7 (3) *EFFECTIVE DATE.*—*The amendments made*
8 *by this subsection shall apply to the estates of dece-*
9 *dents dying, and gifts made, after December 31, 1995.*

10 (b) *ALTERNATE VALUATION OF CERTAIN FARM, ETC.,*
11 *REAL PROPERTY.*—*Subsection (a) of section 2032A is*
12 *amended by adding at the end the following new paragraph:*

13 “(3) *INFLATION ADJUSTMENT.*—*In the case of es-*
14 *tates of decedents dying in a calendar year after*
15 *2000, the \$750,000 amount contained in paragraph*
16 *(2) shall be increased by an amount equal to—*

17 “(A) \$750,000, multiplied by

18 “(B) the cost-of-living adjustment deter-

19 *mined under section 1(f)(3) for such calendar*
20 *year by substituting ‘calendar year 1999’ for*
21 *‘calendar year 1992’ in subparagraph (B) there-*
22 *of.*

23 *If any amount as adjusted under the preceding sen-*
24 *tence is not a multiple of \$10,000, such amount shall*
25 *be rounded to the nearest multiple of \$10,000.”*

1 (c) *ANNUAL GIFT TAX EXCLUSION.*—Subsection (b) of
2 *section 2503 is amended—*

3 (1) *by striking the subsection heading and in-*
4 *serting the following:*

5 “(b) *EXCLUSIONS FROM GIFTS.*—

6 “(1) *IN GENERAL.*—”,

7 (2) *by moving the text 2 ems to the right, and*

8 (3) *by adding at the end the following new para-*
9 *graph:*

10 “(2) *INFLATION ADJUSTMENT.*—*In the case of*
11 *gifts made in a calendar year after 2000, the \$10,000*
12 *amount contained in paragraph (1) shall be increased*
13 *by an amount equal to—*

14 “(A) \$10,000, multiplied by

15 “(B) *the cost-of-living adjustment deter-*
16 *mined under section 1(f)(3) for such calendar*
17 *year by substituting ‘calendar year 1999’ for*
18 *‘calendar year 1992’ in subparagraph (B) there-*
19 *of.*

20 *If any amount as adjusted under the preceding sen-*
21 *tence is not a multiple of \$1,000, such amount shall*
22 *be rounded to the nearest multiple of \$1,000.”*

23 (d) *EXEMPTION FROM GENERATION-SKIPPING TAX.*—

24 *Section 2631 (relating to GST exemption) is amended by*
25 *adding at the end the following new subsection:*

1 “(c) *INFLATION ADJUSTMENT.*—*In the case of an indi-*
2 *vidual who dies in any calendar year after 2000, the*
3 *\$1,000,000 amount contained in subsection (a) shall be in-*
4 *creased by an amount equal to—*

5 “(1) \$1,000,000, multiplied by

6 “(2) the cost-of-living adjustment determined
7 under section 1(f)(3) for such calendar year by sub-
8 stituting ‘calendar year 1999’ for ‘calendar year
9 1992’ in subparagraph (B) thereof.

10 *If any amount as adjusted under the preceding sentence is*
11 *not a multiple of \$10,000, such amount shall be rounded*
12 *to the nearest multiple of \$10,000.”*

13 (e) *AMOUNT OF TAX ELIGIBLE FOR 4 PERCENT IN-*
14 *TEREST RATE ON EXTENSION OF TIME FOR PAYMENT OF*
15 *ESTATE TAX ON CLOSELY HELD BUSINESS.*—

16 (1) *Subparagraph (A) of section 6601(j)(2) is*
17 *amended by striking “\$345,800” and inserting “the*
18 *applicable limitation amount”.*

19 (2) *Subsection (j) of section 6601 is amended by*
20 *redesignating paragraph (3) as paragraph (4) and by*
21 *inserting after paragraph (2) the following new para-*
22 *graph:*

23 “(3) *APPLICABLE LIMITATION AMOUNT.*—

24 “(A) *IN GENERAL.*—*For purposes of para-*
25 *graph (2), the applicable limitation amount is*

1 *the amount of the tentative tax which would be*
2 *determined under the rate schedule set forth in*
3 *section 2001(c) if the amount with respect to*
4 *which such tentative tax is to be computed were*
5 *\$1,000,000.*

6 “(B) *INFLATION ADJUSTMENT.*—*In the case*
7 *of estates of decedents dying in a calendar year*
8 *after 2000, the \$1,000,000 amount contained in*
9 *subparagraph (A) shall be increased by an*
10 *amount equal to—*

11 “(i) *\$1,000,000, multiplied by*

12 “(ii) *the cost-of-living adjustment de-*
13 *termined under section 1(f)(3) for such cal-*
14 *endar year by substituting ‘calendar year*
15 *1999’ for ‘calendar year 1992’ in subpara-*
16 *graph (B) thereof.*

17 *If any amount as adjusted under the preceding*
18 *sentence is not a multiple of \$10,000, such*
19 *amount shall be rounded to the nearest multiple*
20 *of \$10,000.”*

21 **SEC. 11072. FAMILY-OWNED BUSINESS EXCLUSION.**

22 (a) *IN GENERAL.*—*Part III of subchapter A of chapter*
23 11 *(relating to gross estate) is amended by inserting after*
24 section 2033 *the following new section:*

1 **“SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.**

2 “(a) *IN GENERAL.*—*In the case of an estate of a dece-*
3 *dent to which this section applies, the value of the gross*
4 *estate shall not include the lesser of—*

5 “(1) *the adjusted value of the qualified family-*
6 *owned business interests of the decedent otherwise in-*
7 *cludible in the estate, or*

8 “(2) *the sum of—*

9 “(A) *\$1,000,000, plus*

10 “(B) *50 percent of the excess (if any) of the*
11 *adjusted value of such interests over \$1,000,000,*
12 *but not over \$2,500,000.*

13 “(b) *ESTATES TO WHICH SECTION APPLIES.*—

14 “(1) *IN GENERAL.*—*This section shall apply to*
15 *an estate if—*

16 “(A) *the decedent was (at the date of the de-*
17 *cedent’s death) a citizen or resident of the United*
18 *States,*

19 “(B) *the sum of—*

20 “(i) *the adjusted value of the qualified*
21 *family-owned business interests described in*
22 *paragraph (2), plus*

23 “(ii) *the amount of the gifts of such in-*
24 *terests determined under paragraph (3),*

25 *exceeds 50 percent of the adjusted gross estate,*
26 *and*

1 “(C) during the 8-year period ending on the
2 date of the decedent’s death there have been peri-
3 ods aggregating 5 years or more during which—

4 “(i) such interests were owned by the
5 decedent or a member of the decedent’s fam-
6 ily, and

7 “(ii) there was material participation
8 (within the meaning of section 2032A(e)(6))
9 by the decedent or a member of the dece-
10 dent’s family in the operation of the busi-
11 ness to which such interests relate.

12 “(2) *INCLUDIBLE QUALIFIED FAMILY-OWNED*
13 *BUSINESS INTERESTS.*—The qualified family-owned
14 business interests described in this paragraph are the
15 interests which—

16 “(A) are included in determining the value
17 of the gross estate (without regard to this sec-
18 tion), and

19 “(B) are acquired by any qualified heir
20 from, or passed to any qualified heir from, the
21 decedent (within the meaning of section
22 2032A(e)(9)).

23 “(3) *INCLUDIBLE GIFTS OF INTERESTS.*—The
24 amount of the gifts of qualified family-owned business

1 *interests determined under this paragraph is the ex-*
2 *cess of—*

3 *“(A) the sum of—*

4 *“(i) the amount of such gifts from the*
5 *decedent to members of the decedent’s family*
6 *taken into account under subsection*
7 *2001(b)(1)(B), plus*

8 *“(ii) the amount of such gifts otherwise*
9 *excluded under section 2503(b),*

10 *to the extent such interests are continuously held*
11 *by members of such family (other than the dece-*
12 *dent’s spouse) between the date of the gift and the*
13 *date of the decedent’s death, over*

14 *“(B) the amount of such gifts from the dece-*
15 *dent to members of the decedent’s family other-*
16 *wise included in the gross estate.*

17 *“(c) ADJUSTED GROSS ESTATE.—For purposes of this*
18 *section, the term ‘adjusted gross estate’ means the value of*
19 *the gross estate (determined without regard to this sec-*
20 *tion)—*

21 *“(1) reduced by any amount deductible under*
22 *paragraph (3) or (4) of section 2053(a), and*

23 *“(2) increased by the excess of—*

24 *“(A) the sum of—*

1 “(i) the amount of gifts determined
2 under subsection (b)(3), plus

3 “(ii) the amount (if more than de
4 minimis) of other transfers from the dece-
5 dent to the decedent’s spouse (at the time of
6 the transfer) within 10 years of the date of
7 the decedent’s death, plus

8 “(iii) the amount of other gifts (not in-
9 cluded under clause (i) or (ii)) from the de-
10 cedent within 3 years of such date, other
11 than gifts to members of the decedent’s fam-
12 ily otherwise excluded under section
13 2503(b), over

14 “(B) the sum of the amounts described in
15 clauses (i), (ii), and (iii) of subparagraph (A)
16 which are otherwise includible in the gross estate.

17 For purposes of the preceding sentence, the Secretary may
18 provide that de minimis gifts to persons other than members
19 of the decedent’s family shall not be taken into account.

20 “(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-
21 OWNED BUSINESS INTERESTS.—For purposes of this sec-
22 tion, the adjusted value of any qualified family-owned busi-
23 ness interest is the value of such interest for purposes of
24 this chapter (determined without regard to this section), re-
25 duced by the excess of—

1 “(1) any amount deductible under paragraph (3)
2 or (4) of section 2053(a), over

3 “(2) the sum of—

4 “(A) any indebtedness on any qualified res-
5 idence of the decedent the interest on which is de-
6 ductible under section 163(h)(3), plus

7 “(B) any indebtedness to the extent the tax-
8 payer establishes that the proceeds of such in-
9 debtedness were used for the payment of edu-
10 cational and medical expenses of the decedent,
11 the decedent’s spouse, or the decedent’s depend-
12 ents (within the meaning of section 152), plus

13 “(C) any indebtedness not described in
14 clause (i) or (ii), to the extent such indebtedness
15 does not exceed \$10,000.

16 “(e) *QUALIFIED FAMILY-OWNED BUSINESS INTER-*
17 *EST.*—

18 “(1) *IN GENERAL.*—For purposes of this section,
19 the term ‘qualified family-owned business interest’
20 means—

21 “(A) an interest as a proprietor in a trade
22 or business carried on as a proprietorship, or

23 “(B) an interest in an entity carrying on
24 a trade or business, if—

25 “(i) at least—

1 “(I) 50 percent of such entity is
2 owned (directly or indirectly) by the
3 decedent and members of the decedent’s
4 family,

5 “(II) 70 percent of such entity is
6 so owned by members of 2 families, or

7 “(III) 90 percent of such entity is
8 so owned by members of 3 families,
9 and

10 “(i) for purposes of subclause (II) or
11 (III) of clause (i), at least 30 percent of
12 such entity is so owned by the decedent and
13 members of the decedent’s family.

14 “(2) *LIMITATION.*—Such term shall not in-
15 clude—

16 “(A) any interest in a trade or business the
17 principal place of business of which is not lo-
18 cated in the United States,

19 “(B) any interest in an entity, if the stock
20 or debt of such entity or a controlled group (as
21 defined in section 267(f)(1)) of which such entity
22 was a member was readily tradable on an estab-
23 lished securities market or secondary market (as
24 defined by the Secretary) at any time within 3
25 years of the date of the decedent’s death,

1 “(C) any interest in a trade or business not
2 described in section 542(c)(2), if more than 35
3 percent of the adjusted ordinary gross income of
4 such trade or business for the taxable year which
5 includes the date of the decedent’s death would
6 qualify as personal holding company income (as
7 defined in section 543(a)),

8 “(D) that portion of an interest in a trade
9 or business that is attributable to—

10 “(i) cash or marketable securities, or
11 both, in excess of the reasonably expected
12 day-to-day working capital needs of such
13 trade or business, and

14 “(ii) any other assets of the trade or
15 business (other than assets used in the ac-
16 tive conduct of a trade or business described
17 in section 542(c)(2)), the income of which is
18 described in section 543(a) or in subpara-
19 graph (B), (C), (D), or (E) of section
20 954(c)(1) (determined by substituting ‘trade
21 or business’ for ‘controlled foreign corpora-
22 tion’).

23 “(3) RULES REGARDING OWNERSHIP.—

24 “(A) OWNERSHIP OF ENTITIES.—For pur-
25 poses of paragraph (1)(B)—

1 “(i) *CORPORATIONS.*—Ownership of a
2 corporation shall be determined by the hold-
3 ing of stock possessing the appropriate per-
4 centage of the total combined voting power
5 of all classes of stock entitled to vote and the
6 appropriate percentage of the total value of
7 shares of all classes of stock.

8 “(ii) *PARTNERSHIPS.*—Ownership of a
9 partnership shall be determined by the own-
10 ing of the appropriate percentage of the
11 capital interest in such partnership.

12 “(B) *OWNERSHIP OF TIERED ENTITIES.*—
13 For purposes of this section, if by reason of hold-
14 ing an interest in a trade or business, a dece-
15 dent, any member of the decedent’s family, any
16 qualified heir, or any member of any qualified
17 heir’s family is treated as holding an interest in
18 any other trade or business—

19 “(i) such ownership interest in the
20 other trade or business shall be disregarded
21 in determining if the ownership interest in
22 the first trade or business is a qualified
23 family-owned business interest, and

24 “(ii) this section shall be applied sepa-
25 rately in determining if such interest in

1 *any other trade or business is a qualified*
2 *family-owned business interest.*

3 “(C) *INDIVIDUAL OWNERSHIP RULES.—For*
4 *purposes of this section, an interest owned, di-*
5 *rectly or indirectly, by or for an entity described*
6 *in paragraph (1)(B) shall be considered as being*
7 *owned proportionately by or for the entity’s*
8 *shareholders, partners, or beneficiaries. A person*
9 *shall be treated as a beneficiary of any trust*
10 *only if such person has a present interest in such*
11 *trust.*

12 “(f) *TAX TREATMENT OF FAILURE TO MATERIALLY*
13 *PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTER-*
14 *ESTS.—*

15 “(1) *IN GENERAL.—There is imposed an addi-*
16 *tional estate tax if, within 10 years after the date of*
17 *the decedent’s death and before the date of the quali-*
18 *fied heir’s death—*

19 “(A) *the material participation require-*
20 *ments described in section 2032A(c)(6)(B) are*
21 *not met with respect to the qualified family-*
22 *owned business interest which was acquired (or*
23 *passed) from the decedent,*

24 “(B) *the qualified heir disposes of any por-*
25 *tion of a qualified family-owned business interest*

1 *(other than by a disposition to a member of the*
2 *qualified heir's family or through a qualified*
3 *conservation contribution under section 170(h)),*

4 *“(C) the qualified heir loses United States*
5 *citizenship (within the meaning of section 877)*
6 *or with respect to whom an event described in*
7 *subparagraph (A) or (B) of section 877(e)(1) oc-*
8 *curs, and such heir does not comply with the re-*
9 *quirements of subsection (g), or*

10 *“(D) the principal place of business of a*
11 *trade or business of the qualified family-owned*
12 *business interest ceases to be located in the Unit-*
13 *ed States.*

14 *“(2) ADDITIONAL ESTATE TAX.—*

15 *“(A) IN GENERAL.—The amount of the ad-*
16 *ditional estate tax imposed by paragraph (1)*
17 *shall be equal to—*

18 *“(i) the applicable percentage of the*
19 *adjusted tax difference attributable to the*
20 *qualified family-owned business interest (as*
21 *determined under rules similar to the rules*
22 *of section 2032A(c)(2)(B)), plus*

23 *“(ii) interest on the amount deter-*
24 *mined under clause (i) at the*
25 *underpayment rate established under sec-*

1 tion 6621 for the period beginning on the
 2 date the estate tax liability was due under
 3 this chapter and ending on the date such
 4 additional estate tax is due.

5 “(B) *APPLICABLE PERCENTAGE.*—For pur-
 6 poses of this paragraph, the applicable percent-
 7 age shall be determined under the following table:

“If the event described in para-
 graph

(1) occurs in the following year
 of

material participation:

The applicable

percentage is:

1 through 6	100
7	80
8	60
9	40
10	20.

8 “(g) *SECURITY REQUIREMENTS FOR NONCITIZEN*
 9 *QUALIFIED HEIRS.*—

10 “(1) *IN GENERAL.*—Except upon the application
 11 of subparagraph (F) or (M) of subsection (h)(3), if a
 12 qualified heir is not a citizen of the United States,
 13 any interest under this section passing to or acquired
 14 by such heir (including any interest held by such heir
 15 at a time described in subsection (f)(1)(C)) shall be
 16 treated as a qualified family-owned business interest
 17 only if the interest passes or is acquired (or is held)
 18 in a qualified trust.

19 “(2) *QUALIFIED TRUST.*—The term ‘qualified
 20 trust’ means a trust—

1 “(A) which is organized under, and gov-
2 erned by, the laws of the United States or a
3 State, and

4 “(B) except as otherwise provided in regula-
5 tions, with respect to which the trust instrument
6 requires that at least 1 trustee of the trust be an
7 individual citizen of the United States or a do-
8 mestic corporation.

9 “(h) *OTHER DEFINITIONS AND APPLICABLE RULES.*—
10 For purposes of this section—

11 “(1) *QUALIFIED HEIR.*—The term ‘qualified
12 heir’—

13 “(A) has the meaning given to such term by
14 section 2032A(e)(1), and

15 “(B) includes any active employee of the
16 trade or business to which the qualified family-
17 owned business interest relates if such employee
18 has been employed by such trade or business for
19 a period of at least 10 years before the date of
20 the decedent’s death.

21 “(2) *MEMBER OF THE FAMILY.*—The term ‘mem-
22 ber of the family’ has the meaning given to such term
23 by section 2032A(e)(2).

24 “(3) *APPLICABLE RULES.*—Rules similar to the
25 following rules shall apply:

1 “(A) Section 2032A(b)(4) (relating to dece-
2 dents who are retired or disabled).

3 “(B) Section 2032A(b)(5) (relating to spe-
4 cial rules for surviving spouses).

5 “(C) Section 2032A(c)(2)(D) (relating to
6 partial dispositions).

7 “(D) Section 2032A(c)(3) (relating to only
8 1 additional tax imposed with respect to any 1
9 portion).

10 “(E) Section 2032A(c)(4) (relating to due
11 date).

12 “(F) Section 2032A(c)(5) (relating to liabil-
13 ity for tax; furnishing of bond).

14 “(G) Section 2032A(c)(7) (relating to no
15 tax if use begins within 2 years; active manage-
16 ment by eligible qualified heir treated as mate-
17 rial participation).

18 “(H) Section 2032A(e)(10) (relating to com-
19 munity property).

20 “(I) Section 2032A(e)(14) (relating to treat-
21 ment of replacement property acquired in section
22 1031 or 1033 transactions).

23 “(J) Section 2032A(f) (relating to statute of
24 limitations).

1 “(K) Section 6166(b)(3) (relating to farm-
2 houses and certain other structures taken into
3 account).

4 “(L) Subparagraphs (B), (C), and (D) of
5 section 6166(g)(1) (relating to acceleration of
6 payment).

7 “(M) Section 6324B (relating to special lien
8 for additional estate tax).

9 “(4) COORDINATION WITH OTHER ESTATE TAX
10 BENEFITS.—If there is a reduction in the value of the
11 gross estate under this section—

12 “(A) the dollar limitation applicable under
13 section 2032A(a)(2), and

14 “(B) the \$1,000,000 amount under section
15 6601(j)(3) (as adjusted),

16 shall each be reduced (but not below zero) by the
17 amount of such reduction.”.

18 (b) CLERICAL AMENDMENT.—The table of sections for
19 part III of subchapter A of chapter 11 is amended by insert-
20 ing after the item relating to section 2033 the following new
21 item:

 “Sec. 2033A. Family-owned business exclusion.”.

22 (c) EFFECTIVE DATE.—The amendments made by this
23 section shall apply to estates of decedents dying after De-
24 cember 31, 1995.

1 **SEC. 11073. TREATMENT OF LAND SUBJECT TO A QUALI-**
2 **FIED CONSERVATION EASEMENT.**

3 (a) *ESTATE TAX WITH RESPECT TO LAND SUBJECT*
4 *TO A QUALIFIED CONSERVATION EASEMENT.*—Section 2031
5 *(relating to the definition of gross estate) is amended by*
6 *redesignating subsection (c) as subsection (d) and by insert-*
7 *ing after subsection (b) the following new subsection:*

8 “(c) *ESTATE TAX WITH RESPECT TO LAND SUBJECT*
9 *TO A QUALIFIED CONSERVATION EASEMENT.*—

10 “(1) *IN GENERAL.*—*If the executor makes the*
11 *election described in paragraph (4), then, except as*
12 *otherwise provided in this subsection, there shall be*
13 *excluded from the gross estate the applicable percent-*
14 *age of the lesser of—*

15 “(A) *the value of land subject to a qualified*
16 *conservation easement, reduced by the amount of*
17 *any deduction under section 2055(f) with respect*
18 *to such land, or*

19 “(B) *the excess (if any) of \$5,000,000 over*
20 *the lesser of—*

21 “(i) *\$2,500,000, or*

22 “(ii) *the adjusted value of the qualified*
23 *family-owned business interests of the dece-*
24 *dent determined under section 2033A.*

25 “(2) *APPLICABLE PERCENTAGE.*—*For purposes*
26 *of paragraph (1), the term ‘applicable percentage’*

1 means 40 percent reduced (but not below zero) by 2
2 percentage points for each percentage point (or frac-
3 tion thereof) by which the value of the qualified con-
4 servation easement is less than 30 percent of the value
5 of the land (determined without regard to the value
6 of such easement and reduced by the value of any re-
7 tained development right (as defined in paragraph
8 (4)).

9 “(3) TREATMENT OF CERTAIN INDEBTEDNESS.—

10 “(A) IN GENERAL.—The exclusion provided
11 in paragraph (1) shall not apply to the extent
12 that the land is debt-financed property.

13 “(B) DEFINITIONS.—For purposes of this
14 paragraph—

15 “(i) DEBT-FINANCED PROPERTY.—The
16 term ‘debt-financed property’ means any
17 property with respect to which there is an
18 acquisition indebtedness (as defined in
19 clause (ii)) on the date of the decedent’s
20 death.

21 “(ii) ACQUISITION INDEBTEDNESS.—
22 The term ‘acquisition indebtedness’ means,
23 with respect to debt-financed property, the
24 unpaid amount of—

1 “(I) the indebtedness incurred by
2 the donor in acquiring such property,

3 “(II) the indebtedness incurred be-
4 fore the acquisition of such property if
5 such indebtedness would not have been
6 incurred but for such acquisition,

7 “(III) the indebtedness incurred
8 after the acquisition of such property if
9 such indebtedness would not have been
10 incurred but for such acquisition and
11 the incurrence of such indebtedness was
12 reasonably foreseeable at the time of
13 such acquisition, and

14 “(IV) the extension, renewal, or
15 refinancing of an acquisition indebted-
16 ness.

17 “(4) *TREATMENT OF RETAINED DEVELOPMENT*
18 *RIGHT.*—

19 “(A) *IN GENERAL.*—Paragraph (1) shall
20 not apply to the value of any development right
21 retained by the donor in the conveyance of a
22 qualified conservation easement.

23 “(B) *TERMINATION OF RETAINED DEVELOP-*
24 *MENT RIGHT.*—If every person in being who has
25 an interest (whether or not in possession) in the

1 *land executes an agreement to extinguish perma-*
2 *nently some or all of any development rights (as*
3 *defined in subparagraph (D)) retained by the*
4 *donor on or before the date for filing the return*
5 *of the tax imposed by section 2001, then any tax*
6 *imposed by section 2001 shall be reduced accord-*
7 *ingly. Such agreement shall be filed with the re-*
8 *turn of the tax imposed by section 2001. The*
9 *agreement shall be in such form as the Secretary*
10 *shall prescribe.*

11 “(C) *ADDITIONAL TAX.*—*Any failure to im-*
12 *plement the agreement described in subpara-*
13 *graph (B) not later than the earlier of—*

14 “(i) *the date which is 2 years after the*
15 *date of the decedent’s death, or*

16 “(ii) *the date of the sale of such land*
17 *subject to the qualified conservation ease-*
18 *ment,*

19 *shall result in the imposition of an additional*
20 *tax in the amount of the tax which would have*
21 *been due on the retained development rights sub-*
22 *ject to such agreement. Such additional tax shall*
23 *be due and payable on the last day of the 6th*
24 *month following such date.*

1 “(D) *DEVELOPMENT RIGHT DEFINED.*—For
2 purposes of this paragraph, the term ‘develop-
3 ment right’ means any right to use the land sub-
4 ject to the qualified conservation easement in
5 which such right is retained for any commercial
6 purpose which is not subordinate to and directly
7 supportive of the use of such land as a farm for
8 farming purposes (within the meaning of section
9 6420(c)).

10 “(4) *ELECTION.*—The election under this sub-
11 section shall be made on the return of the tax imposed
12 by section 2001. Such an election, once made, shall be
13 irrevocable.

14 “(5) *CALCULATION OF ESTATE TAX DUE.*—An
15 executor making the election described in paragraph
16 (4) shall, for purposes of calculating the amount of
17 tax imposed by section 2001, include the value of any
18 development right (as defined in paragraph (3)) re-
19 tained by the donor in the conveyance of such quali-
20 fied conservation easement. The computation of tax
21 on any retained development right prescribed in this
22 paragraph shall be done in such manner and on such
23 forms as the Secretary shall prescribe.

24 “(6) *DEFINITIONS.*—For purposes of this sub-
25 section—

1 “(A) *LAND SUBJECT TO A QUALIFIED CON-*
2 *SERVATION EASEMENT.—The term ‘land subject*
3 *to a qualified conservation easement’ means*
4 *land—*

5 “(i) *which is located—*

6 “(I) *in or within 25 miles of an*
7 *area which, on the date of the dece-*
8 *dent’s death, is a metropolitan area (as*
9 *defined by the Office of Management*
10 *and Budget),*

11 “(II) *in or within 25 miles of an*
12 *area which, on the date of the dece-*
13 *dent’s death, is a national park or wil-*
14 *derness area designated as part of the*
15 *National Wilderness Preservation Sys-*
16 *tem (unless it is determined by the*
17 *Secretary that land in or within 25*
18 *miles of such a park or wilderness area*
19 *is not under significant development*
20 *pressure), or*

21 “(III) *in or within 10 miles of an*
22 *area which, on the date of the dece-*
23 *dent’s death, is an Urban National*
24 *Forest (as designated by the Forest*
25 *Service),*

1 “(ii) which was owned by the decedent
2 or a member of the decedent’s family at all
3 times during the 3-year period ending on
4 the date of the decedent’s death, and

5 “(iii) with respect to which a qualified
6 conservation easement has been made by the
7 decedent or a member of the decedent’s fam-
8 ily.

9 “(B) *QUALIFIED CONSERVATION EASE-*
10 *MENT.—The term ‘qualified conservation ease-*
11 *ment’ means a qualified conservation contribu-*
12 *tion (as defined in section 170(h)(1)) of a quali-*
13 *fied real property interest (as defined in section*
14 *170(h)(2)(C)), except that clause (iv) of section*
15 *170(h)(4)(A) shall not apply, and the restriction*
16 *on the use of such interest described in section*
17 *170(h)(2)(C) shall include a prohibition on com-*
18 *mmercial recreational activity.*

19 “(C) *MEMBER OF FAMILY.—The term ‘mem-*
20 *ber of the decedent’s family’ means any member*
21 *of the family (as defined in section 2032A(e)(2))*
22 *of the decedent.*

23 “(7) *APPLICATION OF THIS SECTION TO INTER-*
24 *ESTS IN PARTNERSHIPS, CORPORATIONS, AND*
25 *TRUSTS.—This section shall apply to an interest in*

1 *a partnership, corporation, or trust if at least 30 per-*
2 *cent of the entity is owned (directly or indirectly) by*
3 *the decedent, as determined under the rules described*
4 *in section 2033A(e)(3).”.*

5 *(b) CARRYOVER BASIS.—Section 1014(a) (relating to*
6 *basis of property acquired from a decedent) is amended by*
7 *striking the period at the end of paragraph (3) and insert-*
8 *ing “, or” and by adding after paragraph (3) the following*
9 *new paragraph:*

10 *“(4) to the extent of the applicability of the ex-*
11 *clusion described in section 2031(c), the basis in the*
12 *hands of the decedent.”.*

13 *(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT*
14 *A DISPOSITION.—Subsection (c) of section 2032A (relating*
15 *to alternative valuation method) is amended by adding at*
16 *the end the following new paragraph:*

17 *“(8) QUALIFIED CONSERVATION CONTRIBUTION*
18 *IS NOT A DISPOSITION.—A qualified conservation con-*
19 *tribution (as defined in section 170(h)) by gift or oth-*
20 *erwise shall not be deemed a disposition under sub-*
21 *section (c)(1)(A).”.*

22 *(d) EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply to estates of decedents dying after De-*
24 *cember 31, 1995.*

1 **SEC. 11074. EXPANSION OF EXCEPTION FROM GENERATION-**
2 **SKIPPING TRANSFER TAX FOR TRANSFERS TO**
3 **INDIVIDUALS WITH DECEASED PARENTS.**

4 (a) *IN GENERAL.*—Section 2651 (relating to genera-
5 tion assignment) is amended by redesignating subsection (e)
6 as subsection (f), and by inserting after subsection (d) the
7 following new subsection:

8 “(e) *SPECIAL RULE FOR PERSONS WITH A DECEASED*
9 *PARENT.*—

10 “(1) *IN GENERAL.*—For purposes of determining
11 whether any transfer is a generation-skipping trans-
12 fer, if—

13 “(A) an individual is a descendant of a
14 parent of the transferor (or the transferor’s
15 spouse or former spouse), and

16 “(B) such individual’s parent who is a lin-
17 eal descendant of the parent of the transferor (or
18 the transferor’s spouse or former spouse) is dead
19 at the time the transfer (from which an interest
20 of such individual is established or derived) is
21 subject to a tax imposed by chapter 11 or 12
22 upon the transferor (and if there shall be more
23 than 1 such time, then at the earliest such time),
24 such individual shall be treated as if such individual
25 were a member of the generation which is 1 genera-
26 tion below the lower of the transferor’s generation or

1 *the generation assignment of the youngest living an-*
2 *cestor of such individual who is also a descendant of*
3 *the parent of the transferor (or the transferor's spouse*
4 *or former spouse), and the generation assignment of*
5 *any descendant of such individual shall be adjusted*
6 *accordingly.*

7 “(2) *LIMITED APPLICATION OF SUBSECTION TO*
8 *COLLATERAL HEIRS.—This subsection shall not apply*
9 *with respect to a transfer to any individual who is*
10 *not a lineal descendant of the transferor (or the trans-*
11 *feror's spouse or former spouse) if, at the time of the*
12 *transfer, such transferor has any living lineal de-*
13 *scendant.”*

14 (b) *CONFORMING AMENDMENTS.—*

15 (1) *Section 2612(c) (defining direct skip) is*
16 *amended by striking paragraph (2) and by redesign-*
17 *ating paragraph (3) as paragraph (2).*

18 (2) *Section 2612(c)(2) (as so redesignated) is*
19 *amended by striking “section 2651(e)(2)” and insert-*
20 *ing “section 2651(f)(2)”.*

21 (c) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to terminations, distributions, and*
23 *transfers occurring after December 31, 1994.*

1 **SEC. 11075. EXTENSION OF TREATMENT OF CERTAIN RENTS**
2 **UNDER SECTION 2032A TO LINEAL DESCEND-**
3 **ANTS.**

4 (a) *GENERAL RULE.*—Paragraph (7) of section
5 2032A(c) (relating to special rules for tax treatment of dis-
6 positions and failures to use for qualified use) is amended
7 by adding at the end the following new subparagraph:

8 “(E) *CERTAIN RENTS TREATED AS QUALI-*
9 *FIED USE.*—For purposes of this subsection, a
10 surviving spouse or lineal descendant of the dece-
11 dent shall not be treated as failing to use quali-
12 fied real property in a qualified use solely be-
13 cause such spouse or descendant rents such prop-
14 erty to a member of the family of such spouse or
15 descendant on a net cash basis. For purposes of
16 the preceding sentence, a legally adopted child of
17 an individual shall be treated as the child of
18 such individual by blood.”.

19 (b) *CONFORMING AMENDMENT.*—Section
20 2032A(b)(5)(A) is amended by striking out the last sentence.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply with respect to leases entered into after
23 December 31, 1995.

1 ***Subtitle E—Extension of Expiring***
2 ***Provisions***

3 ***CHAPTER 1—TEMPORARY EXTENSIONS***

4 ***SEC. 11111. WORK OPPORTUNITY TAX CREDIT.***

5 (a) *AMOUNT OF CREDIT.*—Subsection (a) of section 51
6 *(relating to amount of credit) is amended by striking “40*
7 *percent” and inserting “35 percent”.*

8 (b) *MEMBERS OF TARGETED GROUPS.*—Subsection (d)
9 *of section 51 is amended to read as follows:*

10 “(d) *MEMBERS OF TARGETED GROUPS.*—For purposes
11 *of this subpart—*

12 “(1) *IN GENERAL.*—An individual is a member
13 *of a targeted group if such individual is—*

14 “(A) a qualified IV–A recipient,

15 “(B) a qualified veteran,

16 “(C) a qualified ex-felon,

17 “(D) a high-risk youth,

18 “(E) a vocational rehabilitation referral, or

19 “(F) a qualified summer youth employee.

20 “(2) *QUALIFIED IV–A RECIPIENT.*—

21 “(A) *IN GENERAL.*—The term ‘qualified IV–
22 *A recipient’ means any individual who is cer-*
23 *tified by the designated local agency as being a*
24 *member of a family receiving assistance under a*
25 *IV–A program for at least a 9-month period end-*

1 *ing during the 9-month period ending on the*
2 *hiring date.*

3 *“(B) IV–A PROGRAM.—For purposes of this*
4 *paragraph, the term ‘IV–A program’ means any*
5 *program providing assistance under a State*
6 *plan approved under part A of title IV of the So-*
7 *cial Security Act (relating to assistance for*
8 *needy families with minor children) and any*
9 *successor of such program.*

10 *“(3) QUALIFIED VETERAN.—*

11 *“(A) IN GENERAL.—The term ‘qualified vet-*
12 *eran’ means any veteran who is certified by the*
13 *designated local agency as being—*

14 *“(i) a member of a family receiving as-*
15 *sistance under a IV–A program (as defined*
16 *in paragraph (2)(B)) for at least a 9-month*
17 *period ending during the 12-month period*
18 *ending on the hiring date, or*

19 *“(ii) a member of a family receiving*
20 *assistance under a food stamp program*
21 *under the Food Stamp Act of 1977 for at*
22 *least a 3-month period ending during the*
23 *12-month period ending on the hiring date.*

24 *“(B) VETERAN.—For purposes of subpara-*
25 *graph (A), the term ‘veteran’ means any individ-*

1 *ual who is certified by the designated local agen-*
2 *cy as—*

3 “(i)(I) *having served on active duty*
4 *(other than active duty for training) in the*
5 *Armed Forces of the United States for a pe-*
6 *riod of more than 180 days, or*

7 “(II) *having been discharged or re-*
8 *leased from active duty in the Armed Forces*
9 *of the United States for a service-connected*
10 *disability, and*

11 “(ii) *not having any day during the*
12 *60-day period ending on the hiring date*
13 *which was a day of extended active duty in*
14 *the Armed Forces of the United States.*

15 *For purposes of clause (ii), the term ‘extended*
16 *active duty’ means a period of more than 90*
17 *days during which the individual was on active*
18 *duty (other than active duty for training).*

19 “(4) *QUALIFIED EX-FELON.—The term ‘qualified*
20 *ex-felon’ means any individual who is certified by the*
21 *designated local agency—*

22 “(A) *as having been convicted of a felony*
23 *under any statute of the United States or any*
24 *State,*

1 “(B) as having a hiring date which is not
2 more than 1 year after the last date on which
3 such individual was so convicted or was released
4 from prison, and

5 “(C) as being a member of a family which
6 had an income during the 6 months immediately
7 preceding the earlier of the month in which such
8 income determination occurs or the month in
9 which the hiring date occurs, which, on an an-
10 nual basis, would be 70 percent or less of the Bu-
11 reau of Labor Statistics lower living standard.

12 *Any determination under subparagraph (C) shall be*
13 *valid for the 45-day period beginning on the date*
14 *such determination is made.*

15 “(5) *HIGH-RISK YOUTH.*—

16 “(A) *IN GENERAL.*—*The term ‘high-risk*
17 *youth’ means any individual who is certified by*
18 *the designated local agency—*

19 “(i) *as having attained age 18 but not*
20 *age 25 on the hiring date, and*

21 “(ii) *as having his principal place of*
22 *abode within an empowerment zone or en-*
23 *terprise community.*

24 “(B) *YOUTH MUST CONTINUE TO RESIDE IN*
25 *ZONE.*—*In the case of a high-risk youth, the term*

1 *‘qualified wages’ shall not include wages paid or*
2 *incurred for services performed while such*
3 *youth’s principal place of abode is outside an*
4 *empowerment zone or enterprise community.*

5 “(6) *VOCATIONAL REHABILITATION REFERRAL.*—
6 *The term ‘vocational rehabilitation referral’ means*
7 *any individual who is certified by the designated*
8 *local agency as—*

9 “(A) *having a physical or mental disability*
10 *which, for such individual, constitutes or results*
11 *in a substantial handicap to employment, and*

12 “(B) *having been referred to the employer*
13 *upon completion of (or while receiving) rehabili-*
14 *tative services pursuant to—*

15 “(i) *an individualized written rehabili-*
16 *tation plan under a State plan for voca-*
17 *tional rehabilitation services approved*
18 *under the Rehabilitation Act of 1973, or*

19 “(ii) *a program of vocational rehabili-*
20 *tation carried out under chapter 31 of title*
21 *38, United States Code.*

22 “(7) *QUALIFIED SUMMER YOUTH EMPLOYEE.*—

23 “(A) *IN GENERAL.*—*The term ‘qualified*
24 *summer youth employee’ means any individ-*
25 *ual—*

1 “(i) who performs services for the em-
2 ployer between May 1 and September 15,

3 “(ii) who is certified by the designated
4 local agency as having attained age 16 but
5 not 18 on the hiring date (or if later, on
6 May 1 of the calendar year involved),

7 “(iii) who has not been an employee of
8 the employer during any period prior to the
9 90-day period described in subparagraph
10 (B)(i), and

11 “(iv) who is certified by the designated
12 local agency as having his principal place
13 of abode within an empowerment zone or
14 enterprise community.

15 “(B) SPECIAL RULES FOR DETERMINING
16 AMOUNT OF CREDIT.—For purposes of applying
17 this subpart to wages paid or incurred to any
18 qualified summer youth employee—

19 “(i) subsection (b)(2) shall be applied
20 by substituting ‘any 90-day period between
21 May 1 and September 15’ for ‘the 1-year
22 period beginning with the day the individ-
23 ual begins work for the employer’, and

24 “(ii) subsection (b)(3) shall be applied
25 by substituting ‘\$3,000’ for ‘\$6,000’.

1 *The preceding sentence shall not apply to an in-*
2 *dividual who, with respect to the same employer,*
3 *is certified as a member of another targeted*
4 *group after such individual has been a qualified*
5 *summer youth employee.*

6 “(C) *YOUTH MUST CONTINUE TO RESIDE IN*
7 *ZONE.—Paragraph (5)(B) shall apply for pur-*
8 *poses of this paragraph.*

9 “(8) *HIRING DATE.—The term ‘hiring date’*
10 *means the day the individual is hired by the em-*
11 *ployer.*

12 “(9) *DESIGNATED LOCAL AGENCY.—The term*
13 *‘designated local agency’ means a State employment*
14 *security agency established in accordance with the Act*
15 *of June 6, 1933, as amended (29 U.S.C. 49–49n).*

16 “(10) *SPECIAL RULES FOR CERTIFICATIONS.—*

17 “(A) *IN GENERAL.—An individual shall not*
18 *be treated as a member of a targeted group un-*
19 *less—*

20 “(i) *on or before the day on which such*
21 *individual begins work for the employer, the*
22 *employer has received a certification from a*
23 *designated local agency that such individual*
24 *is a member of a targeted group, or*

1 “(ii)(I) on or before the day the indi-
2 vidual is offered employment with the em-
3 ployer, a pre-screening notice is completed
4 by the employer with respect to such indi-
5 vidual, and

6 “(II) not later than the 14th day after
7 the individual begins work for the employer,
8 the employer submits such notice, signed by
9 the employer and the individual under pen-
10 alties of perjury, to the designated local
11 agency as part of a written request for such
12 a certification from such agency.

13 For purposes of this paragraph, the term ‘pre-
14 screening notice’ means a document (in such
15 form as the Secretary shall prescribe) which con-
16 tains information provided by the individual on
17 the basis of which the employer believes that the
18 individual is a member of a targeted group.

19 “(B) *INCORRECT CERTIFICATIONS.*—If—

20 “(i) an individual has been certified by
21 a designated local agency as a member of a
22 targeted group, and

23 “(ii) such certification is incorrect be-
24 cause it was based on false information pro-
25 vided by such individual,

1 *the certification shall be revoked and wages paid*
2 *by the employer after the date on which notice*
3 *of revocation is received by the employer shall*
4 *not be treated as qualified wages.*

5 “(C) *EXPLANATION OF DENIAL OF RE-*
6 *QUEST.—If a designated local agency denies a*
7 *request for certification of membership in a tar-*
8 *geted group, such agency shall provide to the per-*
9 *son making such request a written explanation*
10 *of the reasons for such denial.”*

11 *(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3)*
12 *of section 51(i) (relating to certain individuals ineligible)*
13 *is amended to read as follows:*

14 “(3) *INDIVIDUALS NOT MEETING MINIMUM EM-*
15 *PLOYMENT PERIOD.—No wages shall be taken into ac-*
16 *count under subsection (a) with respect to any indi-*
17 *vidual unless such individual either—*

18 *“(A) is employed by the employer at least*
19 *180 days (20 days in the case of a qualified*
20 *summer youth employee), or*

21 *“(B) has completed at least 500 hours (120*
22 *hours in the case of a qualified summer youth*
23 *employee) of services performed for the em-*
24 *ployer.”*

1 (d) *TERMINATION.*—Paragraph (4) of section 51(c)
2 (relating to wages defined) is amended to read as follows:

3 “(4) *TERMINATION.*—The term ‘wages’ shall not
4 include any amount paid or incurred to an individ-
5 ual who begins work for the employer—

6 “(A) after December 31, 1994, and before
7 January 1, 1996, or

8 “(B) after December 31, 1996.”

9 (e) *REDESIGNATION OF CREDIT.*—

10 (1) Sections 38(b)(2) and 51(a) are each amend-
11 ed by striking “targeted jobs credit” and inserting
12 “work opportunity credit”.

13 (2) The subpart heading for subpart F of part IV
14 of subchapter A of chapter 1 is amended by striking
15 “**Targeted Jobs Credit**” and inserting “**Work**
16 **Opportunity Credit**”.

17 (3) The table of subparts for such part IV is
18 amended by striking “targeted jobs credit” and insert-
19 ing “work opportunity credit”.

20 (4) The heading for paragraph (3) of section
21 1396(c) is amended by striking “TARGETED JOBS
22 CREDIT” and inserting “WORK OPPORTUNITY CRED-
23 IT”.

24 (f) *TECHNICAL AMENDMENTS.*—

1 (1) Paragraph (1) of section 51(c) is amended by
2 striking “, subsection (d)(8)(D),”.

3 (2) Paragraph (3) of section 51(i) is amended by
4 striking “(d)(12)” each place it appears and inserting
5 “(d)(6)”.

6 (g) *EFFECTIVE DATE.*—The amendments made by this
7 section shall apply to individuals who begin work for the
8 employer after December 31, 1995.

9 **SEC. 11112. EMPLOYER-PROVIDED EDUCATIONAL ASSIST-**
10 **ANCE PROGRAMS.**

11 (a) *EXTENSION.*—Subsection (d) of section 127 (relat-
12 ing to educational assistance programs) is amended by
13 striking “December 31, 1994” and inserting “December 31,
14 1996”.

15 (b) *LIMITATION TO EDUCATION BELOW GRADUATE*
16 *LEVEL.*—The last sentence of section 127(c)(1) is amended
17 by inserting before the period “or at the graduate level”.

18 (c) *EFFECTIVE DATES.*—

19 (1) *EXTENSION.*—The amendment made by sub-
20 section (a) shall apply to taxable years beginning
21 after December 31, 1994.

22 (2) *LIMITATION.*—The amendment made by sub-
23 section (b) shall apply to taxable years beginning
24 after December 31, 1995.

1 **SEC. 11113. RESEARCH CREDIT.**

2 (a) *IN GENERAL.*—Subsection (h) of section 41 (relat-
3 ing to credit for research activities) is amended—

4 (1) by striking “June 30, 1995” each place it
5 appears and inserting “December 31, 1996”, and

6 (2) by striking “July 1, 1995” each place it ap-
7 pears and inserting “January 1, 1997”.

8 (b) *BASE AMOUNT FOR START-UP COMPANIES.*—
9 Clause (i) of section 41(c)(3)(B) (relating to start-up com-
10 panies) is amended to read as follows:

11 “(i) *TAXPAYERS TO WHICH SUBPARA-*
12 *GRAPH APPLIES.*—The fixed-base percentage
13 shall be determined under this subpara-
14 graph if—

15 “(I) the first taxable year in
16 which a taxpayer had both gross re-
17 cepts and qualified research expenses
18 begins after December 31, 1983, or

19 “(II) there are fewer than 3 tax-
20 able years beginning after December
21 31, 1983, and before January 1, 1989,
22 in which the taxpayer had both gross
23 receipts and qualified research ex-
24 penses.”.

25 (c) *ELECTION OF ALTERNATIVE INCREMENTAL CRED-*
26 *IT.*—Subsection (c) of section 41 is amended by redesignat-

1 *ing paragraphs (4) and (5) as paragraphs (5) and (6), re-*
2 *spectively, and by inserting after paragraph (3) the follow-*
3 *ing new paragraph:*

4 “(4) *ELECTION OF ALTERNATIVE INCREMENTAL*
5 *CREDIT.—*

6 “(A) *IN GENERAL.—At the election of the*
7 *taxpayer, the credit determined under subsection*
8 *(a)(1) shall be equal to the sum of—*

9 “(i) *1.65 percent of so much of the*
10 *qualified research expenses for the taxable*
11 *year as exceeds 1 percent of the average de-*
12 *scribed in subsection (c)(1)(B) but does not*
13 *exceed 1.5 percent of such average,*

14 “(ii) *2.2 percent of so much of such ex-*
15 *penses as exceeds 1.5 percent of such average*
16 *but does not exceed 2 percent of such aver-*
17 *age, and*

18 “(iii) *2.75 percent of so much of such*
19 *expenses as exceeds 2 percent of such aver-*
20 *age.*

21 “(B) *ELECTION.—An election under this*
22 *paragraph may be made only for the first tax-*
23 *able year of the taxpayer beginning after June*
24 *30, 1995. Such an election shall apply to the*
25 *taxable year for which made and all succeeding*

1 *taxable years unless revoked with the consent of*
2 *the Secretary.”*

3 (d) *INCREASED CREDIT FOR CONTRACT RESEARCH*
4 *EXPENSES WITH RESPECT TO CERTAIN RESEARCH CON-*
5 *SORTIA.—Paragraph (3) of section 41(b) is amended by*
6 *adding at the end the following new subparagraph:*

7 “(C) *AMOUNTS PAID TO CERTAIN RESEARCH*
8 *CONSORTIA.—*

9 “(i) *IN GENERAL.—Subparagraph (A)*
10 *shall be applied by substituting ‘75 percent’*
11 *for ‘65 percent’ with respect to amounts*
12 *paid or incurred by the taxpayer to a quali-*
13 *fied research consortium for qualified re-*
14 *search.*

15 “(ii) *QUALIFIED RESEARCH CONSOR-*
16 *TIUM.—The term ‘qualified research Consor-*
17 *tium’ means any organization described in*
18 *subsection (e)(6)(B) if—*

19 “(I) *at least 15 unrelated tax-*
20 *payers paid (during the calendar year*
21 *in which the taxable year of the tax-*
22 *payer begins) amounts to such organi-*
23 *zation for qualified research,*

24 “(II) *no 3 persons paid during*
25 *such calendar year more than 50 per-*

1 *cent of the total amounts paid during*
2 *such calendar year for qualified re-*
3 *search, and*

4 *“(III) no person contributed more*
5 *than 20 percent of such total amounts.*

6 *For purposes of subclause (I), all persons*
7 *treated as a single employer under sub-*
8 *section (a) or (b) of section 52 shall be*
9 *treated as related taxpayers.”*

10 *(e) CONFORMING AMENDMENT.—Subparagraph (D) of*
11 *section 28(b)(1) is amended by striking “June 30, 1995”*
12 *and inserting “December 31, 1996”.*

13 *(f) EFFECTIVE DATE.—*

14 *(1) IN GENERAL.—Except as provided in para-*
15 *graph (2), the amendments made by this section shall*
16 *apply to taxable years ending after June 30, 1995.*

17 *(2) SUBSECTIONS (c) AND (d).—The amendments*
18 *made by subsections (c) and (d) shall apply to taxable*
19 *years beginning after June 30, 1995.*

20 **SEC. 11114. ORPHAN DRUG TAX CREDIT.**

21 *(a) RECATEGORIZED AS A BUSINESS CREDIT.—*

22 *(1) IN GENERAL.—Section 28 (relating to clini-*
23 *cal testing expenses for certain drugs for rare diseases*
24 *or conditions) is transferred to subpart D of part IV*

1 of subchapter A of chapter 1, inserted after section
2 45B, and redesignated as section 45C.

3 (2) *CONFORMING AMENDMENT.*—Subsection (b)
4 of section 38 (relating to general business credit) is
5 amended by striking “plus” at the end of paragraph
6 (10), by striking the period at the end of paragraph
7 (11) and inserting “, plus”, and by adding at the end
8 the following new paragraph:

9 “(12) the orphan drug credit determined under
10 section 45C(a).”.

11 (3) *CLERICAL AMENDMENTS.*—

12 (A) The table of sections for subpart B of
13 such part IV is amended by striking the item re-
14 lating to section 28.

15 (B) The table of sections for subpart D of
16 such part IV is amended by adding at the end
17 the following new item:

“Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or
conditions.”.

18 (b) *CREDIT TERMINATION.*—Subsection (e) of section
19 45C, as redesignated by subsection (a)(1), is amended by
20 striking “December 31, 1994” and inserting “December 31,
21 1996”.

22 (c) *NO PRE-1995 CARRYBACKS.*—Subsection (d) of sec-
23 tion 39 (relating to carryback and carryforward of unused

1 *credits) is amended by adding at the end the following new*
2 *paragraph:*

3 “(7) *NO CARRYBACK OF SECTION 45C CREDIT BE-*
4 *FORE 1995.—No portion of the unused business credit*
5 *for any taxable year which is attributable to the or-*
6 *phan drug credit determined under section 45C may*
7 *be carried back to a taxable year beginning before*
8 *January 1, 1995.”.*

9 *(d) ADDITIONAL CONFORMING AMENDMENTS.—*

10 (1) *Section 45C(a), as redesignated by subsection*
11 *(a)(1), is amended by striking “There shall be allowed*
12 *as a credit against the tax imposed by this chapter*
13 *for the taxable year” and inserting “For purposes of*
14 *section 38, the credit determined under this section*
15 *for the taxable year is”.*

16 (2) *Section 45C(d), as so redesignated, is amend-*
17 *ed by striking paragraph (2) and by redesignating*
18 *paragraphs (3), (4), and (5) as paragraphs (2), (3),*
19 *and (4).*

20 (3) *Section 29(b)(6)(A) is amended by striking*
21 *“sections 27 and 28” and inserting “section 27”.*

22 (4) *Section 30(b)(3)(A) is amended by striking*
23 *“sections 27, 28, and 29” and inserting “sections 27*
24 *and 29”.*

25 (5) *Section 53(d)(1)(B) is amended—*

1 (A) by striking “or not allowed under sec-
2 tion 28 solely by reason of the application of sec-
3 tion 28(d)(2)(B),” in clause (iii), and

4 (B) by striking “or not allowed under sec-
5 tion 28 solely by reason of the application of sec-
6 tion 28(d)(2)(B)” in clause (iv)(II).

7 (6) Section 55(c)(2) is amended by striking
8 “28(d)(2),”.

9 (7) Section 280C(b) is amended—

10 (A) by striking “section 28(b)” in para-
11 graph (1) and inserting “section 45C(b),”

12 (B) by striking “section 28” in paragraphs
13 (1) and (2)(A) and inserting “section 45C(b),”
14 and

15 (C) by striking “subsection (d)(2) thereof”
16 in paragraphs (1) and (2)(A) and inserting “sec-
17 tion 38(c)”.

18 (e) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to taxable years ending after December
20 31, 1994.

21 **SEC. 11115. CONTRIBUTIONS OF STOCK TO PRIVATE FOUN-**
22 **DATIONS.**

23 (a) *IN GENERAL.*—Subparagraph (D) of section
24 170(e)(5) (relating to special rule for contributions of stock
25 for which market quotations are readily available) is

1 amended by striking “December 31, 1994” and inserting
2 “December 31, 1996”.

3 (b) *EFFECTIVE DATE.*—The amendment made by this
4 section shall apply to contributions made after December
5 31, 1994.

6 **SEC. 11116. DELAY OF TAX ON FUEL USED IN COMMERCIAL**
7 **AVIATION.**

8 (a) *IN GENERAL.*—Sections 4092(b)(2), 6421(f)(2)(B),
9 and 6427(l)(4)(B) are each amended by striking “Septem-
10 ber 30, 1995” and inserting “September 30, 1997”.

11 (b) *CONFORMING AMENDMENT.*—Section 13245 of the
12 Omnibus Budget Reconciliation Act of 1993 is hereby re-
13 pealed.

14 (c) *EFFECTIVE DATE.*—

15 (1) *IN GENERAL.*—The amendments made by
16 this section shall take effect after September 30, 1995,
17 but shall not take effect if section 11117 does not take
18 effect.

19 (2) *CROSS REFERENCE.*—

**For refund of tax paid on commercial aviation fuel
before the date of the enactment of this Act, see sec-
tion 6427(l) of the Internal Revenue Code of 1986.**

20 (d) *FLOOR STOCKS TAX.*—

21 (1) *IMPOSITION OF TAX.*—In the case of commer-
22 cial aviation fuel which is held by any person on Oc-
23 tober 1, 1997, there is hereby imposed a floor stocks
24 tax equal to 4.3 cents per gallon.

1 (2) *LIABILITY FOR TAX AND METHOD OF PAY-*
2 *MENT.*—

3 (A) *LIABILITY FOR TAX.*—*A person holding*
4 *aviation fuel on October 1, 1997, to which the*
5 *tax imposed by paragraph (1) applies shall be*
6 *liable for such tax.*

7 (B) *METHOD OF PAYMENT.*—*The tax im-*
8 *posed by paragraph (1) shall be paid in such*
9 *manner as the Secretary shall prescribe.*

10 (C) *TIME FOR PAYMENT.*—*The tax imposed*
11 *by paragraph (1) shall be paid on or before*
12 *April 30, 1998.*

13 (3) *DEFINITIONS.*—*For purposes of this sub-*
14 *section—*

15 (A) *HELD BY A PERSON.*—*Aviation fuel*
16 *shall be considered as “held by a person” if title*
17 *thereto has passed to such person (whether or not*
18 *delivery to the person has been made).*

19 (B) *COMMERCIAL AVIATION FUEL.*—*The*
20 *term “commercial aviation fuel” means aviation*
21 *fuel (as defined in section 4093 of such Code)*
22 *which is held on October 1, 1997, for sale or use*
23 *in commercial aviation (as defined in section*
24 *4092(b) of such Code).*

1 (C) *SECRETARY.*—*The term “Secretary”*
2 *means the Secretary of the Treasury or the Sec-*
3 *retary’s delegate.*

4 (4) *EXCEPTION FOR EXEMPT USES.*—*The tax*
5 *imposed by paragraph (1) shall not apply to aviation*
6 *fuel held by any person exclusively for any use for*
7 *which a credit or refund of the entire tax imposed by*
8 *section 4091 of such Code (other than the rate im-*
9 *posed by section 4091(b)(2) of such Code) is allowable*
10 *for aviation fuel so used.*

11 (5) *EXCEPTION FOR CERTAIN AMOUNTS OF*
12 *FUEL.*—

13 (A) *IN GENERAL.*—*No tax shall be imposed*
14 *by paragraph (1) on aviation fuel held on Octo-*
15 *ber 1, 1997, by any person if the aggregate*
16 *amount of commercial aviation fuel held by such*
17 *person on such date does not exceed 2,000 gal-*
18 *lons. The preceding sentence shall apply only if*
19 *such person submits to the Secretary (at the time*
20 *and in the manner required by the Secretary)*
21 *such information as the Secretary shall require*
22 *for purposes of this paragraph.*

23 (B) *EXEMPT FUEL.*—*For purposes of sub-*
24 *paragraph (A), there shall not be taken into ac-*
25 *count fuel held by any person which is exempt*

1 *from the tax imposed by paragraph (1) by rea-*
2 *son of paragraph (4).*

3 (C) *CONTROLLED GROUPS.*—*For purposes of*
4 *this paragraph—*

5 (i) *CORPORATIONS.*—

6 (I) *IN GENERAL.*—*All persons*
7 *treated as a controlled group shall be*
8 *treated as 1 person.*

9 (II) *CONTROLLED GROUP.*—*The*
10 *term “controlled group” has the mean-*
11 *ing given to such term by subsection*
12 *(a) of section 1563 of such Code; except*
13 *that for such purposes the phrase*
14 *“more than 50 percent” shall be sub-*
15 *stituted for the phrase “at least 80 per-*
16 *cent” each place it appears in such*
17 *subsection.*

18 (ii) *NONINCORPORATED PERSONS*
19 *UNDER COMMON CONTROL.*—*Under regula-*
20 *tions prescribed by the Secretary, principles*
21 *similar to the principles of clause (i) shall*
22 *apply to a group of persons under common*
23 *control where 1 or more of such persons is*
24 *not a corporation.*

1 (6) *OTHER LAWS APPLICABLE.*—All provisions of
2 law, including penalties, applicable with respect to
3 the taxes imposed by section 4091 of such Code shall,
4 insofar as applicable and not inconsistent with the
5 provisions of this subsection, apply with respect to the
6 floor stock taxes imposed by paragraph (1) to the
7 same extent as if such taxes were imposed by such sec-
8 tion 4091.

9 **SEC. 11117. EXTENSION OF AIRPORT AND AIRWAY TRUST**
10 **FUND EXCISE TAXES.**

11 (a) *FUEL TAX.*—

12 (1) Subparagraph (A) of section 4091(b)(3) is
13 amended by striking “January 1, 1996” and insert-
14 ing “October 1, 1996”.

15 (2) Paragraph (2) of section 4081(d), as amend-
16 ed by section 11651 of this Act, is amended by strik-
17 ing “January 1, 1996” and inserting “October 1,
18 1996”.

19 (b) *TICKET TAXES.*—Sections 4261(g) and 4271(d) are
20 each amended by striking “January 1, 1996” and inserting
21 “October 1, 1996”.

22 (c) *TRANSFER TO AIRPORT AND AIRWAY TRUST*
23 *FUND.*—

1 (1) *Subsection (b) of section 9502 is amended by*
 2 *striking “January 1, 1996” each place it appears and*
 3 *inserting “October 1, 1996”.*

4 (2) *Paragraph (3) of section 9502(f) is amended*
 5 *by striking “December 31, 1995” and inserting “Sep-*
 6 *tember 30, 1996”.*

7 **SEC. 11118. EXTENSION OF INTERNAL REVENUE SERVICE**

8 **USER FEES.**

9 *Subsection (c) of section 10511 of the Revenue Act of*
 10 *1987 is amended by striking “October 1, 2000” and by in-*
 11 *serting “October 1, 2002”.*

12 **CHAPTER 2—SUNSET OF LOW-INCOME**

13 **HOUSING CREDIT**

14 **SEC. 11121. SUNSET OF LOW-INCOME HOUSING CREDIT.**

15 (a) *REPEAL OF REALLOCATION OF UNUSED CREDITS*
 16 *AMONG STATES.—Subparagraph (D) of section 42(h)(3) is*
 17 *amended by adding at the end the following new clause:*

18 “(v) *TERMINATION.—No amount may*
 19 *be allocated under this paragraph for any*
 20 *calendar year after 1995.”*

21 (b) *TERMINATION.—Section 42 is amended by adding*
 22 *at the end the following new subsection:*

23 “(o) *TERMINATION.—*

24 “(1) *IN GENERAL.—Except as provided in para-*
 25 *graph (2)—*

1 “(A) clause (i) of subsection (h)(3)(C) shall
2 not apply to any amount allocated after Decem-
3 ber 31, 1997, and

4 “(B) subsection (h)(4) shall not apply to
5 any building placed in service after such date.

6 “(2) *EXCEPTION FOR BOND-FINANCED BUILDINGS*
7 *IN PROGRESS.*—For purposes of paragraph (1)(B), a
8 building shall be treated as placed in service before
9 January 1, 1998, if—

10 “(A) the bonds with respect to such building
11 are issued before such date,

12 “(B) the taxpayer’s basis in the project (of
13 which the building is a part) as of December 31,
14 1997, is more than 10 percent of the taxpayer’s
15 reasonably expected basis in such project as of
16 December 31, 1999, and

17 “(C) such building is placed in service be-
18 fore January 1, 2000.”

19 **CHAPTER 3—EXTENSIONS OF SUPERFUND**
20 **AND OIL SPILL LIABILITY TAXES**

21 **SEC. 11131. EXTENSION OF HAZARDOUS SUBSTANCE**
22 **SUPERFUND TAXES.**

23 (a) *EXTENSION OF TAXES.*—

24 (1) *ENVIRONMENTAL TAX.*—Section 59A(e) is
25 amended to read as follows:

1 “(e) *APPLICATION OF TAX.*—The tax imposed by this
2 section shall apply to taxable years beginning after Decem-
3 ber 31, 1986, and before January 1, 1997.”.

4 (2) *EXCISE TAXES.*—Section 4611(e) is amended
5 to read as follows:

6 “(e) *APPLICATION OF HAZARDOUS SUBSTANCE*
7 *SUPERFUND FINANCING RATE.*—The Hazardous Substance
8 Superfund financing rate under this section shall apply
9 after December 31, 1986, and before October 1, 1996.”.

10 (b) *TERMINATION ON DEPOSITS OF TAXES INTO HAZ-*
11 *ARDOUS SUBSTANCE SUPERFUND.*—Paragraph (1) of sec-
12 tion 9507(b) is amended by inserting “before August 1,
13 1996” after “received”.

14 (c) *EFFECTIVE DATE.*—The amendments made by this
15 section shall take effect on the date of the enactment of this
16 Act.

17 **SEC. 11132. EXTENSION OF OIL SPILL LIABILITY TAX.**

18 (a) *IN GENERAL.*—Section 4611(f)(1) (relating to ap-
19 plication of oil spill liability trust fund financing rate) is
20 amended by striking “after December 31, 1989, and before
21 January 1, 1995” and inserting “after December 31, 1995,
22 and before October 1, 2002”.

23 (b) *EFFECTIVE DATE.*—The amendment made by this
24 section shall take effect on January 1, 1996.

1 **CHAPTER 4—EXTENSIONS RELATING TO**
2 **FUEL TAXES**

3 **SEC. 11141. ETHANOL BLENDER REFUNDS.**

4 (a) *IN GENERAL.*—Paragraph (4) of section 6427(f)
5 (relating to gasoline, diesel fuel, and aviation fuel used to
6 produce certain alcohol fuels) is amended by striking
7 “1995” and inserting “1999”.

8 (b) *SPECIAL RULE.*—With respect to refund claims
9 which could have been filed under section 6427(f) of the In-
10 ternal Revenue Code of 1986 during the period beginning
11 on October 8, 1995, and ending on the date of the enactment
12 of this Act, but for the expiration of such section after Sep-
13 tember 30, 1995, interest shall accrue on such claims from
14 the date which is the later of—

15 (1) November 1, 1995, or

16 (2) 20 days after the claim could have been filed
17 under such section as in effect on September 30, 1995.

18 (c) *EFFECTIVE DATE.*—The amendment made by sub-
19 section (a) shall take effect on the date of the enactment
20 of this Act.

21 **SEC. 11142. EXTENSION OF BINDING CONTRACT DATE FOR**
22 **BIOMASS AND COAL FACILITIES.**

23 (a) *IN GENERAL.*—Subparagraph (A) of section
24 29(g)(1) (relating to extension of certain facilities) is
25 amended by striking “January 1, 1997” and inserting

1 “January 1, 1998” and by striking “January 1, 1996” and
2 inserting “July 1, 1996”.

3 (b) *EFFECTIVE DATE.*—The amendment made by this
4 section shall take effect on the date of the enactment of this
5 Act.

6 **SEC. 11143. EXEMPTION FROM DIESEL FUEL DYEING RE-**
7 **QUIREMENTS WITH RESPECT TO CERTAIN**
8 **STATES.**

9 (a) *IN GENERAL.*—Section 4082 (relating to exemp-
10 tions for diesel fuel) is amended by redesignating sub-
11 sections (c) and (d) as subsections (d) and (e), respectively,
12 and by inserting after subsection (b) the following new sub-
13 section:

14 “(c) *EXCEPTION TO DYEING REQUIREMENTS.*—Para-
15 graph (2) of subsection (a) shall not apply with respect to
16 any diesel fuel—

17 “(1) removed, entered, or sold in a State for ulti-
18 mate sale or use in an area of such State on or after
19 the date on which such area is exempted from the fuel
20 dyeing requirements under subsection (i) of section
21 211 of the Clean Air Act (as in effect on the date of
22 the enactment of this subsection) by the Administrator
23 of the Environmental Protection Agency under para-
24 graph (4) of such subsection (i) (as so in effect), and

1 “(2) the use of which is certified pursuant to reg-
2 ulations issued by the Secretary.”

3 (b) *EFFECTIVE DATE.*—The amendments made by this
4 section shall take effect on the first day of the first calendar
5 quarter beginning after the date of the enactment of this
6 Act.

7 **SEC. 11144. MORATORIUM FOR EXCISE TAX ON DIESEL**
8 **FUEL SOLD FOR USE OR USED IN DIESEL-**
9 **POWERED MOTORBOATS.**

10 (a) *IN GENERAL.*—Subparagraph (D) of section
11 4041(a)(1) (relating to the imposition of tax on diesel fuel
12 and special motor fuels) is amended to read as follows:

13 “(D) *DIESEL FUEL USED IN MOTOR-*
14 *BOATS.*—

15 “(i) *MORATORIUM.*—No tax shall be
16 imposed by subsection (a) or (d)(1) on die-
17 sel fuel sold for use or used in a diesel-pow-
18 ered motorboat during the period after De-
19 cember 31, 1995, and before July 1, 1997.

20 “(ii) *SPECIAL TERMINATION DATE.*—In
21 the case of any sale for use, or use, of fuel
22 in a diesel-powered motorboat—

23 “(I) effective during the period
24 after September 30, 1999, and before
25 January 1, 2000, the rate of tax im-

1 posed by this paragraph is 24.3 cents
2 per gallon, and

3 “(II) the termination of the tax
4 under subsection (d) shall not occur be-
5 fore January 1, 2000.”.

6 (b) *EFFECTIVE DATE.*—The amendments made by this
7 section shall take effect after December 31, 1995.

8 **CHAPTER 5—PERMANENT EXTENSION OF**
9 **FUTA EXEMPTION FOR ALIEN AGRI-**
10 **CULTURAL WORKERS**

11 **SEC. 11151. FUTA EXEMPTION FOR ALIEN AGRICULTURAL**
12 **WORKERS.**

13 (a) *IN GENERAL.*—Subparagraph (B) of section
14 3306(c)(1) (defining employment) is amended by striking
15 “before January 1, 1995,”.

16 (b) *EFFECTIVE DATE.*—The amendment made by sub-
17 section (a) shall apply to services performed after December
18 31, 1994.

1 **CHAPTER 6—DISCLOSURE OF RETURN IN-**
2 **FORMATION FOR ADMINISTRATION OF**
3 **CERTAIN VETERANS PROGRAMS**

4 **SEC. 11161. DISCLOSURE OF RETURN INFORMATION FOR**
5 **ADMINISTRATION OF CERTAIN VETERANS**
6 **PROGRAMS.**

7 (a) *GENERAL RULE.*—Subparagraph (D) of section
8 6103(l)(7) (relating to disclosure of return information to
9 Federal, State, and local agencies administering certain
10 programs) is amended by striking “Clause (viii) shall not
11 apply after September 30, 1998.” and inserting “Clause
12 (viii) shall not apply after September 30, 2002.”

13 (b) *EFFECTIVE DATE.*—The amendment made by sub-
14 section (a) shall take effect on the date of the enactment
15 of this Act.

16 **Subtitle F—Taxpayer Bill of Rights**
17 **2 Provisions**

18 **SEC. 11201. EXPANSION OF AUTHORITY TO ABATE INTER-**
19 **EST.**

20 (a) *GENERAL RULE.*—Paragraph (1) of section
21 6404(e) (relating to abatement of interest in certain cases)
22 is amended—

23 (1) by inserting “unreasonable” before “error”
24 each place it appears in subparagraphs (A) and (B),
25 and

1 (2) by striking “in performing a ministerial
2 act” each place it appears and inserting “in perform-
3 ing a ministerial or managerial act”.

4 (b) *CLERICAL AMENDMENT.*—The subsection heading
5 for subsection (e) of section 6404 is amended—

6 (1) by striking “ASSESSMENTS” and inserting
7 “ABATEMENT”, and

8 (2) by inserting “UNREASONABLE” before “ER-
9 RORS”.

10 (c) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to interest accruing with respect to defi-
12 ciencies or payments for taxable years beginning after the
13 date of the enactment of this Act.

14 **SEC. 11202. EXTENSION OF INTEREST-FREE PERIOD FOR**
15 **PAYMENT OF TAX AFTER NOTICE AND DE-**
16 **MAND.**

17 (a) *GENERAL RULE.*—Paragraph (3) of section
18 6601(e) (relating to payments made within 10 days after
19 notice and demand) is amended to read as follows:

20 “(3) *PAYMENTS MADE WITHIN SPECIFIED PE-*
21 *RIOD AFTER NOTICE AND DEMAND.*—If notice and de-
22 *mand is made for payment of any amount and if*
23 *such amount is paid within 21 calendar days (10*
24 *business days if the amount for which such notice and*
25 *demand is made equals or exceeds \$100,000) after the*

1 *date of such notice and demand, interest under this*
2 *section on the amount so paid shall not be imposed*
3 *for the period after the date of such notice and de-*
4 *mand.”*

5 **(b) CONFORMING AMENDMENTS.—**

6 (1) *Subparagraph (A) of section 6601(e)(2) is*
7 *amended by striking “10 days from the date of notice*
8 *and demand therefor” and inserting “21 calendar*
9 *days from the date of notice and demand therefor (10*
10 *business days if the amount for which such notice and*
11 *demand is made equals or exceeds \$100,000)”.*

12 (2) *Paragraph (3) of section 6651(a) is amended*
13 *by striking “10 days of the date of the notice and de-*
14 *mand therefor” and inserting “21 calendar days from*
15 *the date of notice and demand therefor (10 business*
16 *days if the amount for which such notice and demand*
17 *is made equals or exceeds \$100,000)”.*

18 **(c) EFFECTIVE DATE.—***The amendments made by this*
19 *section shall apply in the case of any notice and demand*
20 *given after June 30, 1996.*

21 **SEC. 11203. JOINT RETURN MAY BE MADE AFTER SEPARATE**

22 **RETURNS WITHOUT FULL PAYMENT OF TAX.**

23 **(a) GENERAL RULE.—***Paragraph (2) of section*
24 *6013(b) (relating to limitations on filing of joint return*
25 *after filing separate returns) is amended by striking sub-*

1 paragraph (A) and redesignating the following subpara-
2 graphs accordingly.

3 (b) *EFFECTIVE DATE.*—The amendment made by sub-
4 section (a) shall apply to taxable years beginning after the
5 date of the enactment of this Act.

6 **SEC. 11204. MODIFICATIONS TO CERTAIN LEVY EXEMPTION**
7 **AMOUNTS.**

8 (a) *FUEL, ETC.*—Paragraph (2) of section 6334(a) (re-
9 lating to fuel, provisions, furniture, and personal effects ex-
10 empt from levy) is amended—

11 (1) by striking “If the taxpayer is the head of a
12 family, so” and inserting “So”,

13 (2) by striking “his household” and inserting
14 “the taxpayer’s household”, and

15 (3) by striking “\$1,650 (\$1,550 in the case of
16 levies issued during 1989)” and inserting “\$2,500”.

17 (b) *BOOKS, ETC.*—Paragraph (3) of section 6334(a)
18 (relating to books and tools of a trade, business, or profes-
19 sion) is amended by striking “\$1,100 (\$1,050 in the case
20 of levies issued during 1989)” and inserting “\$1,250”.

21 (c) *INFLATION ADJUSTMENT.*—Section 6334 (relating
22 to property exempt from levy) is amended by adding at the
23 end the following new subsection:

24 “(f) *INFLATION ADJUSTMENT.*—

1 “(1) *IN GENERAL.*—*In the case of any calendar*
2 *year beginning after 1996, each dollar amount re-*
3 *ferred to in paragraphs (2) and (3) of subsection (a)*
4 *shall be increased by an amount equal to—*

5 “(A) *such dollar amount, multiplied by*
6 “(B) *the cost-of-living adjustment deter-*
7 *mined under section 1(f)(3) for such calendar*
8 *year, by substituting ‘calendar year 1995’ for*
9 *‘calendar year 1992’ in subparagraph (B) there-*
10 *of.*

11 “(2) *ROUNDING.*—*If any dollar amount after*
12 *being increased under paragraph (1) is not a mul-*
13 *tiiple of \$10, such dollar amount shall be rounded to*
14 *the nearest multiple of \$10.”.*

15 “(d) *EFFECTIVE DATE.*—*The amendments made by this*
16 *section shall take effect with respect to levies issued after*
17 *December 31, 1995.*

18 **SEC. 11205. OFFERS-IN-COMPROMISE.**

19 “(a) *REVIEW REQUIREMENTS.*—*Subsection (b) of sec-*
20 *tion 7122 (relating to records) is amended by striking*
21 *“\$500.” and inserting “\$50,000. However, such compromise*
22 *shall be subject to continuing quality review by the Sec-*
23 *retary.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall take effect on the date of the enactment of this*
3 *Act.*

4 ***SEC. 11206. INCREASED LIMIT ON ATTORNEY FEES.***

5 (a) *IN GENERAL.*—*Paragraph (1) of section 7430(c)*
6 *(defining reasonable litigation costs) is amended—*

7 (1) *by striking “\$75” in clause (iii) of subpara-*
8 *graph (B) and inserting “\$110”,*

9 (2) *by striking “an increase in the cost of living*
10 *or” in clause (iii) of subparagraph (B), and*

11 (3) *by adding after clause (iii) the following:*

12 *“In the case of any calendar year beginning after*
13 *1996, the dollar amount referred to in clause (iii)*
14 *shall be increased by an amount equal to such dollar*
15 *amount multiplied by the cost-of-living adjustment*
16 *determined under section 1(f)(3) for such calendar*
17 *year, by substituting ‘calendar year 1995’ for ‘cal-*
18 *endar year 1992’ in subparagraph (B) thereof. If any*
19 *dollar amount after being increased under the preced-*
20 *ing sentence is not a multiple of \$10, such dollar*
21 *amount shall be rounded to the nearest multiple of*
22 *\$10.”*

23 (b) *EFFECTIVE DATE.*—*The amendment made by this*
24 *section shall apply in the case of proceedings commenced*
25 *after the date of the enactment of this Act.*

1 **SEC. 11207. AWARD OF LITIGATION COSTS PERMITTED IN**
2 **DECLARATORY JUDGMENT PROCEEDINGS.**

3 (a) *IN GENERAL.*—Subsection (b) of section 7430 is
4 amended by striking paragraph (3) and by redesignating
5 paragraph (4) as paragraph (3).

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall apply in the case of proceedings commenced
8 after the date of the enactment of this Act.

9 **SEC. 11208. INCREASE IN LIMIT ON RECOVERY OF CIVIL**
10 **DAMAGES FOR UNAUTHORIZED COLLECTION**
11 **ACTIONS.**

12 (a) *GENERAL RULE.*—Subsection (b) of section 7433
13 (relating to damages) is amended by striking “\$100,000”
14 and inserting “\$1,000,000”.

15 (b) *EFFECTIVE DATE.*—The amendment made by sub-
16 section (a) shall apply to actions by officers or employees
17 of the Internal Revenue Service after the date of the enact-
18 ment of this Act.

19 **SEC. 11209. ENROLLED AGENTS INCLUDED AS THIRD-PARTY**
20 **RECORDKEEPERS.**

21 (a) *IN GENERAL.*—Paragraph (3) of section 7609(a)
22 (relating to third-party recordkeeper defined) is amended
23 by striking “and” at the end of subparagraph (G), by strik-
24 ing the period at the end of subparagraph (H) and inserting
25 “; and”, and by adding at the end the following the sub-
26 paragraph:

1 “(I) any enrolled agent.”

2 (b) *EFFECTIVE DATE.*—The amendment made by sub-
3 section (a) shall apply to summonses issued after the date
4 of the enactment of this Act.

5 **SEC. 11210. ANNUAL REMINDERS TO TAXPAYERS WITH OUT-**
6 **STANDING DELINQUENT ACCOUNTS.**

7 (a) *IN GENERAL.*—Chapter 77 (relating to miscellane-
8 ous provisions) is amended by adding at the end the follow-
9 ing new section:

10 **“SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.**

11 “Not less often than annually, the Secretary shall send
12 a written notice to each taxpayer who has a tax delinquent
13 account of the amount of the tax delinquency as of the date
14 of the notice.”

15 (b) *CLERICAL AMENDMENT.*—The table of sections for
16 chapter 77 is amended by adding at the end the following
17 new item:

 “Sec. 7524. Annual notice of tax delinquency.”

18 (c) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to calendar years after 1995.

1 **Subtitle G—Casualty and**
2 **Involuntary Conversion Provisions**

3 **SEC. 11251. BASIS ADJUSTMENT TO PROPERTY HELD BY**
4 **CORPORATION WHERE STOCK IN CORPORA-**
5 **TION IS REPLACEMENT PROPERTY UNDER IN-**
6 **VOLUNTARY CONVERSION RULES.**

7 (a) *IN GENERAL.*—Subsection (b) of section 1033 is
8 amended to read as follows:

9 “(b) *BASIS OF PROPERTY ACQUIRED THROUGH IN-*
10 *VOLUNTARY CONVERSION.*—

11 “(1) *CONVERSIONS DESCRIBED IN SUBSECTION*
12 (a)(1).—*If the property was acquired as the result of*
13 *a compulsory or involuntary conversion described in*
14 *subsection (a)(1), the basis shall be the same as in the*
15 *case of the property so converted—*

16 “(A) *decreased in the amount of any money*
17 *received by the taxpayer which was not expended*
18 *in accordance with the provisions of law (appli-*
19 *cable to the year in which such conversion was*
20 *made) determining the taxable status of the gain*
21 *or loss upon such conversion, and*

22 “(B) *increased in the amount of gain or de-*
23 *creased in the amount of loss to the taxpayer rec-*
24 *ognized upon such conversion under the law ap-*

1 *plicable to the year in which such conversion*
2 *was made.*

3 “(2) *CONVERSIONS DESCRIBED IN SUBSECTION*
4 *(a)(2).—In the case of property purchased by the tax-*
5 *payer in a transaction described in subsection (a)(2)*
6 *which resulted in the nonrecognition of any part of*
7 *the gain realized as the result of a compulsory or in-*
8 *voluntary conversion, the basis shall be the cost of*
9 *such property decreased in the amount of the gain not*
10 *so recognized; and if the property purchased consists*
11 *of more than 1 piece of property, the basis determined*
12 *under this sentence shall be allocated to the purchased*
13 *properties in proportion to their respective costs.*

14 “(3) *PROPERTY HELD BY CORPORATION THE*
15 *STOCK OF WHICH IS REPLACEMENT PROPERTY.—*

16 “(A) *IN GENERAL.—If the basis of stock in*
17 *a corporation is decreased under paragraph (2),*
18 *an amount equal to such decrease shall also be*
19 *applied to reduce the basis of property held by*
20 *the corporation at the time the taxpayer ac-*
21 *quired control (as defined in subsection*
22 *(a)(2)(E)) of such corporation.*

23 “(B) *LIMITATION.—Subparagraph (A) shall*
24 *not apply to the extent that it would (but for*
25 *this subparagraph) require a reduction in the*

1 aggregate adjusted bases of the property of the
2 corporation below the taxpayer's adjusted basis
3 of the stock in the corporation (determined im-
4 mediately after such basis is decreased under
5 paragraph (2)).

6 “(C) ALLOCATION OF BASIS REDUCTION.—
7 The decrease required under subparagraph (A)
8 shall be allocated—

9 “(i) first to property which is similar
10 or related in service or use to the converted
11 property,

12 “(ii) second to depreciable property (as
13 defined in section 1017(b)(3)(B)) not de-
14 scribed in clause (i), and

15 “(iii) then to other property.

16 “(D) SPECIAL RULES.—

17 “(i) REDUCTION NOT TO EXCEED AD-
18 JUSTED BASIS OF PROPERTY.—No reduction
19 in the basis of any property under this
20 paragraph shall exceed the adjusted basis of
21 such property (determined without regard
22 to such reduction).

23 “(ii) ALLOCATION OF REDUCTION
24 AMONG PROPERTIES.—If more than 1 prop-
25 erty is described in a clause of subpara-

1 graph (C), the reduction under this para-
2 graph shall be allocated among such prop-
3 erty in proportion to the adjusted bases of
4 such property (as so determined).”.

5 (b) *EFFECTIVE DATE.*—The amendment made by this
6 section shall apply to involuntary conversions occurring
7 after September 13, 1995.

8 **SEC. 11252. EXPANSION OF REQUIREMENT THAT INVOLUN-**
9 **TARILY CONVERTED PROPERTY BE RE-**
10 **PLACED WITH PROPERTY ACQUIRED FROM**
11 **AN UNRELATED PERSON.**

12 (a) *IN GENERAL.*—Subsection (i) of section 1033 is
13 amended to read as follows:

14 “(i) *REPLACEMENT PROPERTY MUST BE ACQUIRED*
15 *FROM UNRELATED PERSON IN CERTAIN CASES.*—

16 “(1) *IN GENERAL.*—If the property which is in-
17 voluntarily converted is held by a taxpayer to which
18 this subsection applies, subsection (a) shall not apply
19 if the replacement property or stock is acquired from
20 a related person. The preceding sentence shall not
21 apply to the extent that the related person acquired
22 the replacement property or stock from an unrelated
23 person during the period applicable under subsection
24 (a)(2)(B).

1 “(2) *TAXPAYERS TO WHICH SUBSECTION AP-*
2 *PLIES.—This subsection shall apply to—*

3 “(A) *a C corporation,*

4 “(B) *a partnership in which 1 or more C*
5 *corporations own, directly or indirectly (deter-*
6 *mined in accordance with section 707(b)(3)),*
7 *more than 50 percent of the capital interest, or*
8 *profits interest, in such partnership at the time*
9 *of the involuntary conversion, and*

10 “(C) *any other taxpayer if, with respect to*
11 *property which is involuntarily converted during*
12 *the taxable year, the aggregate of the amount of*
13 *realized gain on such property on which there is*
14 *realized gain exceeds \$100,000.*

15 *In the case of a partnership, subparagraph (C) shall*
16 *apply with respect to the partnership and with re-*
17 *spect to each partner. A similar rule shall apply in*
18 *the case of an S corporation and its shareholders.*

19 “(3) *RELATED PERSON.—For purposes of this*
20 *subsection, a person is related to another person if the*
21 *person bears a relationship to the other person de-*
22 *scribed in section 267(b) or 707(b)(1).”.*

23 (b) *EFFECTIVE DATE.—The amendment made by this*
24 *section shall apply to involuntary conversions occurring*
25 *after September 13, 1995.*

1 **SEC. 11253. SPECIAL RULE FOR CROP INSURANCE PRO-**
2 **CEEDS AND DISASTER PAYMENTS.**

3 (a) *IN GENERAL.*—Section 451(d) (relating to special
4 rule for crop insurance proceeds and disaster payments) is
5 amended to read as follows:

6 “(d) *SPECIAL RULE FOR CROP INSURANCE PROCEEDS*
7 *AND DISASTER PAYMENTS.*—

8 “(1) *GENERAL RULE.*—In the case of any pay-
9 ment described in paragraph (2), a taxpayer report-
10 ing on the cash receipts and disbursements method of
11 accounting—

12 “(A) may elect to treat any such payment
13 received in the taxable year of destruction or
14 damage of crops as having been received in the
15 following taxable year if the taxpayer establishes
16 that, under the taxpayer’s practice, income from
17 such crops involved would have been reported in
18 a following taxable year, or

19 “(B) may elect to treat any such payment
20 received in a taxable year following the taxable
21 year of the destruction or damage of crops as
22 having been received in the taxable year of de-
23 struction or damage, if the taxpayer establishes
24 that, under the taxpayer’s practice, income from
25 such crops involved would have been reported in
26 the taxable year of destruction or damage.

1 “(2) *PAYMENTS DESCRIBED.*—For purposes of
2 this subsection, a payment is described in this para-
3 graph if such payment—

4 “(A) is insurance proceeds received on ac-
5 count of destruction or damage to crops, or

6 “(B) is disaster assistance received under
7 any Federal law as a result of—

8 “(i) destruction or damage to crops
9 caused by drought, flood, or other natural
10 disaster, or

11 “(ii) inability to plant crops because of
12 such a disaster.”.

13 (b) *EFFECTIVE DATE.*—The amendment made by sub-
14 section (a) applies to payments received after December 31,
15 1992, as a result of destruction or damage occurring after
16 such date.

17 **SEC. 11254. APPLICATION OF INVOLUNTARY EXCLUSION**
18 **RULES TO PRESIDENTIALLY DECLARED DIS-**
19 **ASTERS.**

20 (a) *IN GENERAL.*—Section 1033(h) is amended by re-
21 designating paragraphs (2) and (3) as paragraphs (3) and
22 (4) and by inserting after paragraph (1) the following new
23 paragraph:

24 “(2) *TRADE OR BUSINESS AND INVESTMENT*
25 *PROPERTY.*—If a taxpayer’s property held for produc-

1 *tive use in a trade or business or for investment is*
2 *compulsorily or involuntarily converted as a result of*
3 *a Presidentially declared disaster, tangible property*
4 *of a type held for productive use in a trade or busi-*
5 *ness shall be treated for purposes of subsection (a) as*
6 *property similar or related in use to the property so*
7 *converted.”.*

8 *(b) CONFORMING AMENDMENTS.—Section 1033(h) is*
9 *amended—*

10 *(1) by striking “residence” in paragraph (3) (as*
11 *redesignated by subsection (a)) and inserting “prop-*
12 *erty”,*

13 *(2) by striking “Principal Residences” in the*
14 *heading and inserting “Property”, and*

15 *(3) by striking “(1) IN GENERAL.—” and insert-*
16 *ing “(1) PRINCIPAL RESIDENCES.—”.*

17 *(c) EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to disasters declared after December 31,*
19 *1994, in taxable years ending after such date.*

1 ***Subtitle H—Exempt Organizations***
 2 ***and Charitable Reforms***
 3 ***CHAPTER 1—EXCISE TAX ON AMOUNTS OF***
 4 ***PRIVATE EXCESS BENEFITS***

5 ***SEC. 11271. EXCISE TAXES FOR FAILURE BY CERTAIN CHAR-***
 6 ***ITABLE ORGANIZATIONS TO MEET CERTAIN***
 7 ***QUALIFICATION REQUIREMENTS.***

8 *(a) IN GENERAL.—Chapter 42 (relating to private*
 9 *foundations and certain other tax-exempt organizations) is*
 10 *amended by redesignating subchapter D as subchapter E*
 11 *and by inserting after subchapter C the following new sub-*
 12 *chapter:*

13 ***“Subchapter D—Failure By Certain***
 14 ***Charitable Organizations To***
 15 ***Meet Certain Qualification Re-***
 16 ***quirements***

“Sec. 4958. Taxes on excess benefit transactions.

17 ***“SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.***

18 ***“(a) INITIAL TAXES.—***

19 ***“(1) ON THE DISQUALIFIED PERSON.—There is***
 20 ***hereby imposed on each excess benefit transaction a***
 21 ***tax equal to 25 percent of the excess benefit. The tax***
 22 ***imposed by this paragraph shall be paid by any dis-***
 23 ***qualified person referred to in subsection (f)(1) with***
 24 ***respect to such transaction.***

1 “(2) *ON THE MANAGEMENT.*—*In any case in*
2 *which a tax is imposed by paragraph (1), there is*
3 *hereby imposed on the participation of any organiza-*
4 *tion manager in the excess benefit transaction, know-*
5 *ing that it is such a transaction, a tax equal to 10*
6 *percent of the excess benefit, unless such participation*
7 *is not willful and is due to reasonable cause. The tax*
8 *imposed by this paragraph shall be paid by any orga-*
9 *nization manager who participated in the excess ben-*
10 *efit transaction.*

11 “(b) *ADDITIONAL TAX ON THE DISQUALIFIED PER-*
12 *SON.*—*In any case in which an initial tax is imposed by*
13 *subsection (a)(1) on an excess benefit transaction and the*
14 *excess benefit involved in such transaction is not corrected*
15 *within the taxable period, there is hereby imposed a tax*
16 *equal to 200 percent of the excess benefit involved. The tax*
17 *imposed by this subsection shall be paid by any disqualified*
18 *person referred to in subsection (f)(1) with respect to such*
19 *transaction.*

20 “(c) *EXCESS BENEFIT TRANSACTION; EXCESS BENE-*
21 *FIT.*—*For purposes of this section—*

22 “(1) *EXCESS BENEFIT TRANSACTION.*—

23 “(A) *IN GENERAL.*—*The term ‘excess benefit*
24 *transaction’ means any transaction in which an*
25 *economic benefit is provided by an applicable*

1 *tax-exempt organization directly or indirectly to*
2 *or for the use of any disqualified person if the*
3 *value of the economic benefit provided exceeds the*
4 *value of the consideration (including the per-*
5 *formance of services) received for providing such*
6 *benefit. For purposes of the preceding sentence,*
7 *an economic benefit shall not be treated as con-*
8 *sideration for the performance of services unless*
9 *such organization clearly indicated its intent to*
10 *so treat such benefit.*

11 “(B) *EXCESS BENEFIT.*—*The term ‘excess*
12 *benefit’ means the excess referred to in subpara-*
13 *graph (A).*”

14 “(2) *AUTHORITY TO INCLUDE CERTAIN OTHER*
15 *PRIVATE INUREMENT.*—*To the extent provided in reg-*
16 *ulations prescribed by the Secretary, the term ‘excess*
17 *benefit transaction’ includes any transaction in which*
18 *the amount of any economic benefit provided to or for*
19 *the use of a disqualified person is determined in*
20 *whole or in part by the revenues of 1 or more activi-*
21 *ties of the organization but only if such transaction*
22 *results in inurement not permitted under paragraph*
23 *(3) or (4) of section 501(c), as the case may be. In*
24 *the case of any such transaction, the excess benefit*

1 *shall be the amount of the inurement not so per-*
2 *mitted.*

3 “(d) *SPECIAL RULES.—For purposes of this section—*

4 “(1) *JOINT AND SEVERAL LIABILITY.—If more*
5 *than 1 person is liable for any tax imposed by sub-*
6 *section (a) or subsection (b), all such persons shall be*
7 *jointly and severally liable for such tax.*

8 “(2) *LIMIT FOR MANAGEMENT.—With respect to*
9 *any 1 excess benefit transaction, the maximum*
10 *amount of the tax imposed by subsection (a)(2) shall*
11 *not exceed \$10,000.*

12 “(e) *APPLICABLE TAX-EXEMPT ORGANIZATION.—For*
13 *purposes of this subchapter, the term ‘applicable tax-exempt*
14 *organization’ means—*

15 “(1) *any organization which (without regard to*
16 *any excess benefit) would be described in paragraph*
17 *(3) or (4) of section 501(c) and exempt from tax*
18 *under section 501(a), and*

19 “(2) *any organization which was described in*
20 *paragraph (1) at any time during the 2-year period*
21 *ending on the date of the transaction.*

22 *Such term shall not include a private foundation (as de-*
23 *finied in section 509(a)).*

24 “(f) *OTHER DEFINITIONS.—For purposes of this sec-*
25 *tion—*

1 “(1) *DISQUALIFIED PERSON*.—The term ‘dis-
2 qualified person’ means, with respect to any trans-
3 action—

4 “(A) any person who was, at any time dur-
5 ing the 5-year period ending on the date of such
6 transaction, in a position to exercise substantial
7 influence over the affairs of the organization,

8 “(B) a member of the family of an individ-
9 ual described in subparagraph (A), and

10 “(C) a 35-percent controlled entity.

11 “(2) *ORGANIZATION MANAGER*.—The term ‘orga-
12 nization manager’ means, with respect to any appli-
13 cable tax-exempt organization, any officer, director,
14 or trustee of such organization (or any individual
15 having powers or responsibilities similar to those of
16 officers, directors, or trustees of the organization).

17 “(3) *35-PERCENT CONTROLLED ENTITY*.—

18 “(A) *IN GENERAL*.—The term ‘35-percent
19 controlled entity’ means—

20 “(i) a corporation in which persons de-
21 scribed in subparagraph (A) or (B) of para-
22 graph (1) own more than 35 percent of the
23 total combined voting power,

1 “(ii) a partnership in which such per-
2 sons own more than 35 percent of the prof-
3 its interest, and

4 “(iii) a trust or estate in which such
5 persons own more than 35 percent of the
6 beneficial interest.

7 “(B) CONSTRUCTIVE OWNERSHIP RULES.—
8 Rules similar to the rules of paragraphs (3) and
9 (4) of section 4946(a) shall apply for purposes of
10 this paragraph.

11 “(4) FAMILY MEMBERS.—The members of an in-
12 dividual’s family shall be determined under section
13 4946(d); except that such members also shall include
14 the brothers and sisters (whether by the whole or half
15 blood) of the individual and their spouses.

16 “(5) TAXABLE PERIOD.—The term ‘taxable pe-
17 riod’ means, with respect to any excess benefit trans-
18 action, the period beginning with the date on which
19 the transaction occurs and ending on the earliest of—

20 “(A) the date of mailing a notice of defi-
21 ciency under section 6212 with respect to the tax
22 imposed by subsection (a)(1), or

23 “(B) the date on which the tax imposed by
24 subsection (a)(1) is assessed.

1 “(6) *CORRECTION.*—*The terms ‘correction’ and*
2 *‘correct’ mean, with respect to any excess benefit*
3 *transaction, undoing the excess benefit to the extent*
4 *possible, and where fully undoing the excess benefit is*
5 *not possible, such additional corrective action as is*
6 *prescribed by the Secretary by regulations.”*

7 ***(b) APPLICATION OF PRIVATE INUREMENT RULE TO***
8 ***TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION***
9 ***501(c)(4).***—

10 (1) *Paragraph (4) of section 501(c) is amended*
11 *by inserting “(A)” after “(4)” and by adding at the*
12 *end the following:*

13 “(B) *Subparagraph (A) shall not apply to an*
14 *entity unless no part of the net earnings of such en-*
15 *tity inures to the benefit of any private shareholder*
16 *or individual.”*

17 (2) *In the case of an organization operating on*
18 *a cooperative basis which, before the date of the enact-*
19 *ment of this Act, was determined by the Secretary of*
20 *the Treasury or his delegate, to be described in section*
21 *501(c)(4) of the Internal Revenue Code of 1986 and*
22 *exempt from tax under section 501(a) of such Code,*
23 *the allocation or return of net margins or capital to*
24 *the members of such organization in accordance with*
25 *its incorporating statute and bylaws shall not be*

1 *treated for purposes of such Code as the inurement of*
2 *the net earnings of such organization to the benefit of*
3 *any private shareholder or individual. The preceding*
4 *sentence shall apply only if such statute and bylaws*
5 *are substantially as such statute and bylaws were in*
6 *existence on the date of the enactment of this Act.*

7 *(c) TECHNICAL AND CONFORMING AMENDMENTS.—*

8 *(1) Subsection (e) of section 4955 is amended—*

9 *(A) by striking “SECTION 4945” in the*
10 *heading and inserting “SECTIONS 4945 and*
11 *4958”, and*

12 *(B) by inserting before the period “or an ex-*
13 *cess benefit for purposes of section 4958”.*

14 *(2) Subsections (a), (b), and (c) of section 4963*
15 *are each amended by inserting “4958,” after “4955,”.*

16 *(3) Subsection (e) of section 6213 is amended by*
17 *inserting “4958 (relating to private excess benefit),”*
18 *before “4971”.*

19 *(4) Paragraphs (2) and (3) of section 7422(g)*
20 *are each amended by inserting “4958,” after “4955,”.*

21 *(5) Subsection (b) of section 7454 is amended by*
22 *inserting “or whether an organization manager (as*
23 *defined in section 4958(f)(2)) has ‘knowingly’ partici-*
24 *pated in an excess benefit transaction (as defined in*
25 *section 4958(c)),” after “section 4912(b),”.*

1 (6) *The table of subchapters for chapter 42 is*
2 *amended by striking the last item and inserting the*
3 *following:*

 “Subchapter D. Failure by certain charitable organizations to meet
 certain qualification requirements.

 “Subchapter E. Abatement of first and second tier taxes in certain
 cases.”

4 (d) *EFFECTIVE DATES.—*

5 (1) *IN GENERAL.—The amendments made by*
6 *this section (other than subsection (b)) shall apply to*
7 *excess benefit transactions occurring on or after Sep-*
8 *tember 14, 1995.*

9 (2) *BINDING CONTRACTS.—The amendments re-*
10 *ferred to in paragraph (1) shall not apply to any*
11 *benefit arising from a transaction pursuant to any*
12 *written contract which was binding on September 13,*
13 *1995, and at all times thereafter before such trans-*
14 *action occurred.*

15 (3) *APPLICATION OF PRIVATE INUREMENT RULE*
16 *TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SEC-*
17 *TION 501(C)(4).—*

18 (A) *IN GENERAL.—The amendment made*
19 *by subsection (b) shall apply to inurement occur-*
20 *ring on or after September 14, 1995.*

21 (B) *BINDING CONTRACTS.—The amendment*
22 *made by subsection (b) shall not apply to any*
23 *inurement occurring before January 1, 1997,*

1 *pursuant to a written contract which was bind-*
2 *ing on September 13, 1995, and at all times*
3 *thereafter before such inurement occurred.*

4 **SEC. 11272. REPORTING OF CERTAIN EXCISE TAXES AND**
5 **OTHER INFORMATION.**

6 *(a) REPORTING BY ORGANIZATIONS DESCRIBED IN*
7 *SECTION 501(c)(3).—Subsection (b) of section 6033 (relat-*
8 *ing to certain organizations described in section 501(c)(3))*
9 *is amended by striking “and” at the end of paragraph (9),*
10 *by redesignating paragraph (10) as paragraph (14), and*
11 *by inserting after paragraph (9) the following new para-*
12 *graphs:*

13 *“(10) the respective amounts (if any) of the taxes*
14 *paid by the organization during the taxable year*
15 *under the following provisions:*

16 *“(A) section 4911 (relating to tax on excess*
17 *expenditures to influence legislation),*

18 *“(B) section 4912 (relating to tax on dis-*
19 *qualifying lobbying expenditures of certain orga-*
20 *nizations), and*

21 *“(C) section 4955 (relating to taxes on po-*
22 *litical expenditures of section 501(c)(3) organiza-*
23 *tions),*

24 *“(11) the respective amounts (if any) of the taxes*
25 *paid by the organization, or any disqualified person*

1 *with respect to such organization, during the taxable*
2 *year under section 4958 (relating to taxes on private*
3 *excess benefit from certain charitable organizations),*

4 *“(12) such information as the Secretary may re-*
5 *quire with respect to any excess benefit transaction*
6 *(as defined in section 4958),*

7 *“(13) the name of each disqualified person (as*
8 *defined in section 4958(f)(1)(A)) with respect to such*
9 *organization and such other information as the Sec-*
10 *retary may prescribe, and”.*

11 **(b) ORGANIZATIONS DESCRIBED IN SECTION**
12 **501(c)(4).**—*Section 6033 is amended by redesignating sub-*
13 *section (f) as subsection (g) and by inserting after sub-*
14 *section (e) the following new subsection:*

15 **“(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION**
16 **501(c)(4).**—*Every organization described in section*
17 **501(c)(4) which is subject to the requirements of subsection**
18 **(a) shall include on the return required under subsection**
19 **(a) the information referred to in paragraphs (11), (12) and**
20 **(13) of subsection (b) with respect to such organization.”**

21 **(c) EFFECTIVE DATE.**—*The amendments made by this*
22 *section shall apply to returns for taxable years beginning*
23 *after the date of the enactment of this Act.*

1 **SEC. 11273. INCREASE IN PENALTIES ON EXEMPT ORGANI-**
2 **ZATIONS FOR FAILURE TO FILE COMPLETE**
3 **AND TIMELY ANNUAL RETURNS.**

4 (a) *IN GENERAL.*—Subparagraph (A) of section
5 6652(c)(1) (relating to annual returns under section 6033)
6 is amended by striking “\$10” and inserting “\$20” and by
7 striking “\$5,000” and inserting “\$10,000”.

8 (b) *LARGER PENALTY ON ORGANIZATIONS HAVING*
9 *GROSS RECEIPTS IN EXCESS OF \$1,000,000.*—Subpara-
10 graph (A) of section 6652(c)(1) is amended by adding at
11 the end the following new sentence: “In the case of an orga-
12 nization having gross receipts exceeding \$1,000,000 for any
13 year, with respect to the return required under section 6033
14 for such year, the first sentence of this subparagraph shall
15 be applied by substituting ‘\$100’ for ‘\$20’ and, in lieu of
16 applying the second sentence of this subparagraph, the max-
17 imum penalty under this subparagraph shall not exceed
18 \$50,000.”

19 (c) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to returns for taxable years ending on
21 or after December 31, 1995.

22 **CHAPTER 2—OTHER PROVISIONS**

23 **SEC. 11276. COOPERATIVE SERVICE ORGANIZATIONS FOR**
24 **CERTAIN FOUNDATIONS.**

25 (a) *IN GENERAL.*—Section 501 (relating to exemption
26 from tax on corporations, certain trusts, etc.) is amended

1 *by redesignating subsection (n) as subsection (o) and by in-*
2 *serting after subsection (m) the following new subsection:*

3 “(n) *COOPERATIVE SERVICE ORGANIZATIONS FOR*
4 *CERTAIN FOUNDATIONS.—*

5 “(1) *IN GENERAL.—For purposes of this title, if*
6 *an organization—*

7 “(A) *is organized and operated solely for*
8 *purposes referred to in subsection (f)(1),*

9 “(B) *is composed solely of members which*
10 *are exempt from taxation under subsection (a)*
11 *and are—*

12 “(i) *private foundations, or*

13 “(ii) *community foundations as to*
14 *which section 170(b)(1)(A)(vi) applies,*

15 “(C) *has at least 20 members,*

16 “(D) *does not at any time after the second*
17 *taxable year beginning after the date of its orga-*
18 *nization or, if later, beginning after the date of*
19 *the enactment of this subsection, have a member*
20 *which holds more than 10 percent (by value) of*
21 *the interests in the organization,*

22 “(E) *is organized and controlled by its*
23 *members but is not controlled by any one mem-*
24 *ber and does not have a member which controls*
25 *another member of the organization, and*

1 “(F) permits members of the organization to
2 require the dismissal of any of the organization’s
3 investment advisers, following reasonable notice,
4 if members holding a majority of interest in the
5 account managed by such adviser vote to remove
6 such adviser,
7 then such organization shall be treated as an organi-
8 zation organized and operated exclusively for chari-
9 table purposes.

10 “(2) TREATMENT OF INCOME OF MEMBERS.—If
11 any member of an organization described in para-
12 graph (1) is a private foundation (other than an ex-
13 empt operating foundation, as defined in section
14 4940(d)), such private foundation’s allocable share of
15 the capital gain net income and gross investment in-
16 come of the organization for any taxable year of the
17 organization shall be treated, for purposes of section
18 4940, as capital gain net income and gross invest-
19 ment income of such private foundation (whether or
20 not distributed to such foundation) for the taxable
21 year of such private foundation with or within which
22 the taxable year of the organization described in
23 paragraph (1) ends (and such private foundation
24 shall take into account its allocable share of the de-

1 ductions referred to in section 4940(c)(3) of the orga-
2 nization).

3 “(3) *APPLICABLE EXCISE TAXES.*—Subchapter A
4 of chapter 42 (other than sections 4940 and 4942)
5 shall apply to any organization described in para-
6 graph (1).”.

7 (b) *CONFORMING AMENDMENTS.*—

8 (1) Section 4945(d) is amended by adding at the
9 end the following new flush sentence:

10 “Paragraph (4)(B) shall not apply to a grant to an organi-
11 zation described in section 501(n).”

12 (2) Section 4942(g)(1)(A) is amended by insert-
13 ing “or an organization described in section 501(n)”
14 after “subsection (j)(3)”.

15 (c) *EFFECTIVE DATE.*—The amendments made by this
16 section shall apply to taxable years ending after December
17 31, 1995.

18 **SEC. 11277. EXCLUSION FROM UNRELATED BUSINESS TAX-**
19 **ABLE INCOME FOR CERTAIN SPONSORSHIP**
20 **PAYMENTS.**

21 (a) *IN GENERAL.*—Section 513 (relating to unrelated
22 trade or business income) is amended by adding at the end
23 the following new subsection:

24 “(i) *TREATMENT OF CERTAIN SPONSORSHIP PAY-*
25 *MENTS.*—

1 “(1) *IN GENERAL.*—*The term ‘unrelated trade or*
2 *business’ does not include the activity of soliciting*
3 *and receiving qualified sponsorship payments.*

4 “(2) *QUALIFIED SPONSORSHIP PAYMENTS.*—*For*
5 *purposes of this subsection—*

6 “(A) *IN GENERAL.*—*The term ‘qualified*
7 *sponsorship payment’ means any payment made*
8 *by any person engaged in a trade or business*
9 *with respect to which there is no arrangement or*
10 *expectation that such person will receive any*
11 *substantial return benefit other than the use or*
12 *acknowledgement of the name or logo (or product*
13 *lines) of such person’s trade or business in con-*
14 *nection with the activities of the organization*
15 *that receives such payment. Such a use or ac-*
16 *knowledgement does not include advertising such*
17 *person’s products or services (including messages*
18 *containing qualitative or comparative language,*
19 *price information or other indications of savings*
20 *or value, an endorsement, or an inducement to*
21 *purchase, sell, or use such products or services).*

22 “(B) *LIMITATIONS.*—

23 “(i) *CONTINGENT PAYMENTS.*—*The*
24 *term ‘qualified sponsorship payment’ does*
25 *not include any payment if the amount of*

1 *such payment is contingent upon the level*
2 *of attendance at one or more events, broad-*
3 *cast ratings, or other factors indicating the*
4 *degree of public exposure to one or more*
5 *events.*

6 “(ii) *ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term ‘quali-*
7 *fied sponsorship payment’ does not include*
8 *any payment which entitles the payor to an*
9 *acknowledgement or advertising in regu-*
10 *larly scheduled and printed material pub-*
11 *lished by or on behalf of the payee organiza-*
12 *tion that is not related to and primarily*
13 *distributed in connection with a specific*
14 *event conducted by the payee organization.*

15 “(3) *ALLOCATION OF PORTIONS OF SINGLE PAY-*
16 *MENT.—For purposes of this subsection, to the extent*
17 *that a portion of a payment would (if made as a sep-*
18 *arate payment) be a qualified sponsorship payment,*
19 *such portion of such payment and the other portion*
20 *of such payment shall be treated as separate pay-*
21 *ments.”.*

22 “(b) *EFFECTIVE DATE.—The amendment made by this*
23 *section shall apply to payments solicited or received after*
24 *December 31, 1995.*

1 **SEC. 11278. TREATMENT OF DUES PAID TO AGRICULTURAL**
2 **OR HORTICULTURAL ORGANIZATIONS.**

3 (a) *GENERAL RULE.*—Section 512 (defining unrelated
4 business taxable income) is amended by adding at the end
5 the following new subsection:

6 “(d) *TREATMENT OF DUES OF AGRICULTURAL OR*
7 *HORTICULTURAL ORGANIZATIONS.*—

8 “(1) *IN GENERAL.*—If—

9 “(A) *an agricultural or horticultural orga-*
10 *nization described in section 501(c)(5) requires*
11 *annual dues to be paid in order to be a member*
12 *of such organization, and*

13 “(B) *the amount of such required annual*
14 *dues does not exceed \$100,*
15 *in no event shall any portion of such dues be treated*
16 *as derived by such organization from an unrelated*
17 *trade or business by reason of any benefits or privi-*
18 *leges to which members of such organization are enti-*
19 *tled.*

20 “(2) *INDEXATION OF \$100 AMOUNT.*—*In the case*
21 *of any taxable year beginning in a calendar year*
22 *after 1995, the \$100 amount in paragraph (1) shall*
23 *be increased by an amount equal to—*

24 “(A) *\$100, multiplied by*

25 “(B) *the cost-of-living adjustment deter-*
26 *mined under section 1(f)(3) for the calendar year*

1 ***Subtitle I—Tax Reform and Other***
2 ***Provisions***

3 ***CHAPTER 1—PROVISIONS RELATING TO***
4 ***BUSINESSES***

5 ***SEC. 11301. TAX TREATMENT OF CERTAIN EXTRAORDINARY***
6 ***DIVIDENDS.***

7 (a) *TREATMENT OF EXTRAORDINARY DIVIDENDS IN*
8 *EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (re-*
9 *lating to corporate shareholder’s basis in stock reduced by*
10 *nontaxed portion of extraordinary dividends) is amended*
11 *to read as follows:*

12 “(2) *AMOUNTS IN EXCESS OF BASIS.—If the*
13 *nontaxed portion of such dividends exceeds such basis,*
14 *such excess shall be treated as gain from the sale or*
15 *exchange of such stock for the taxable year in which*
16 *the extraordinary dividend is received.”.*

17 (b) *TREATMENT OF REDEMPTIONS WHERE OPTIONS*
18 *INVOLVED.—Paragraph (1) of section 1059(e) (relating to*
19 *treatment of partial liquidations and non-pro rata redemp-*
20 *tions) is amended to read as follows:*

21 “(1) *TREATMENT OF PARTIAL LIQUIDATIONS AND*
22 *CERTAIN REDEMPTIONS.—Except as otherwise pro-*
23 *vided in regulations—*

24 “(A) *REDEMPTIONS.—In the case of any re-*
25 *demption of stock—*

1 “(i) which is part of a partial liquida-
2 tion (within the meaning of section 302(e))
3 of the redeeming corporation,

4 “(ii) which is not pro rata as to all
5 shareholders, or

6 “(iii) which would not have been treat-
7 ed (in whole or in part) as a dividend if
8 any options had not been taken into ac-
9 count under section 318(a)(4),

10 any amount treated as a dividend with respect
11 to such redemption shall be treated as an ex-
12 traordinary dividend to which paragraphs (1)
13 and (2) of subsection (a) apply without regard
14 to the period the taxpayer held such stock. In the
15 case of a redemption described in clause (iii),
16 only the basis in the stock redeemed shall be
17 taken into account under subsection (a).

18 “(B) REORGANIZATIONS, ETC.—An ex-
19 change described in section 356(a)(1) which is
20 treated as a dividend under section 356(a)(2)
21 shall be treated as a redemption of stock for pur-
22 poses of applying subparagraph (A).”.

23 (c) EFFECTIVE DATES.—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to distributions after May 3,*
3 *1995.*

4 (2) *TRANSITION RULE.*—*The amendments made*
5 *by this section shall not apply to any distribution*
6 *made pursuant to the terms of—*

7 (A) *a written binding contract in effect on*
8 *May 3, 1995, and at all times thereafter before*
9 *such distribution, or*

10 (B) *a tender offer outstanding on May 3,*
11 *1995.*

12 (3) *CERTAIN DIVIDENDS NOT PURSUANT TO CER-*
13 *TAIN REDEMPTIONS.*—*In determining whether the*
14 *amendment made by subsection (a) applies to any ex-*
15 *traordinary dividend other than a dividend treated as*
16 *an extraordinary dividend under section 1059(e)(1) of*
17 *the Internal Revenue Code of 1986 (as amended by*
18 *this Act), paragraphs (1) and (2) shall be applied by*
19 *substituting “September 13, 1995” for “May 3,*
20 *1995”.*

21 **SEC. 11302. REGISTRATION OF CONFIDENTIAL CORPORATE**
22 **TAX SHELTERS.**

23 (a) *IN GENERAL.*—*Section 6111 (relating to registra-*
24 *tion of tax shelters) is amended by redesignating subsections*

1 *(d) and (e) as subsections (e) and (f), respectively, and by*
2 *inserting after subsection (c) the following new subsection:*

3 “(d) *CERTAIN CONFIDENTIAL ARRANGEMENTS TREAT-*
4 *ED AS TAX SHELTERS.—*

5 “(1) *IN GENERAL.—For purposes of this section,*
6 *the term ‘tax shelter’ includes any entity, plan, ar-*
7 *rangement, or transaction—*

8 “(A) *a significant purpose of the structure*
9 *of which is the avoidance or evasion of Federal*
10 *income tax for a direct or indirect participant*
11 *which is a corporation,*

12 “(B) *which is offered to any potential par-*
13 *ticipant under conditions of confidentiality, and*

14 “(C) *for which the tax shelter promoters*
15 *may receive fees in excess of \$100,000 in the ag-*
16 *gregate.*

17 “(2) *CONDITIONS OF CONFIDENTIALITY.—For*
18 *purposes of paragraph (1)(B), an offer is under con-*
19 *ditions of confidentiality if—*

20 “(A) *the potential participant to whom the*
21 *offer is made (or any other person acting on be-*
22 *half of such participant) has an understanding*
23 *or agreement with or for the benefit of any pro-*
24 *moter of the tax shelter that such participant (or*
25 *such other person) will limit disclosure of the tax*

1 *shelter or any significant tax features of the tax*
2 *shelter, or*

3 “(B) *any promoter of the tax shelter—*

4 “(i) *claims, knows, or has reason to*
5 *know,*

6 “(ii) *knows or has reason to know that*
7 *any other person (other than the potential*
8 *participant) claims, or*

9 “(iii) *causes another person to claim,*
10 *that the tax shelter (or any aspect thereof) is*
11 *proprietary to any person other than the poten-*
12 *tial participant or is otherwise protected from*
13 *disclosure to or use by others.*

14 *For purposes of this subsection, the term ‘promoter’*
15 *means any person or any related person (within the*
16 *meaning of section 267 or 707) who participates in*
17 *the organization, management, or sale of the tax shel-*
18 *ter.*

19 “(3) *PERSONS OTHER THAN PROMOTER RE-*
20 *QUIRED TO REGISTER IN CERTAIN CASES.—*

21 “(A) *IN GENERAL.—If—*

22 “(i) *the requirements of subsection (a)*
23 *are not met with respect to any tax shelter*
24 *(as defined in paragraph (1)) by any tax*
25 *shelter promoter, and*

1 “(ii) no tax shelter promoter is a Unit-
2 ed States person,
3 then each United States person who discussed
4 participation in such shelter shall register such
5 shelter under subsection (a).

6 “(B) EXCEPTION.—Subparagraph (A) shall
7 not apply to a United States person who dis-
8 cussed participation in a tax shelter if—

9 “(i) such person notified the promoter
10 in writing (not later than the close of the
11 90th day after the day on which such dis-
12 cussions began) that such person would not
13 participate in such shelter, and

14 “(ii) such person does not participate
15 in such shelter.

16 “(4) OFFER TO PARTICIPATE TREATED AS OFFER
17 FOR SALE.—For purposes of subsections (a) and (b),
18 an offer to participate in a tax shelter (as defined in
19 paragraph (1)) shall be treated as an offer for sale.”.

20 (b) PENALTY.—Subsection (a) of section 6707 (relating
21 to failure to furnish information regarding tax shelters) is
22 amended by adding at the end the following new paragraph:

23 “(3) CONFIDENTIAL ARRANGEMENTS.—

24 “(A) IN GENERAL.—In the case of a tax
25 shelter (as defined in section 6111(d)), the pen-

1 *alty imposed under paragraph (1) shall be an*
2 *amount equal to the greater of—*

3 *“(i) 50 percent of the fees paid to any*
4 *promoter of the tax shelter with respect to*
5 *offerings made before the date such shelter is*
6 *registered under section 6111, or*

7 *“(ii) \$10,000.*

8 *Clause (i) shall be applied by substituting ‘75*
9 *percent’ for ‘50 percent’ in the case of an inten-*
10 *tional failure or act described in paragraph (1).*

11 *“(B) SPECIAL RULE FOR PARTICIPANTS RE-*
12 *QUIRED TO REGISTER SHELTER.—In the case of*
13 *a person required to register such a tax shelter*
14 *by reason of section 6111(d)(3)—*

15 *“(i) such person shall be required to*
16 *pay the penalty under paragraph (1) only*
17 *if such person actually participated in such*
18 *shelter,*

19 *“(ii) the amount of such penalty shall*
20 *be determined by taking into account under*
21 *subparagraph (A)(i) only the fees paid by*
22 *such person, and*

23 *“(iii) such penalty shall be in addition*
24 *to the penalty imposed on any other person*
25 *for failing to register such shelter.”.*

1 (b) *EXCEPTION FOR CONTRACTS RELATING TO KEY*
2 *PERSONS; PERMISSIBLE INTEREST RATES.*—Section 264 is
3 *amended—*

4 (1) *by striking “Any” in subsection (a)(4) and*
5 *inserting “Except as provided in subsection (d), any”,*
6 *and*

7 (2) *by adding at the end the following new sub-*
8 *section:*

9 “(d) *SPECIAL RULES FOR APPLICATION OF SUB-*
10 *SECTION (a)(4).*—

11 “(1) *EXCEPTION FOR KEY PERSONS.*—Subsection
12 *(a)(4) shall not apply to any interest paid or accrued*
13 *on any indebtedness with respect to policies or con-*
14 *tracts covering an individual who is a key person to*
15 *the extent that the aggregate amount of such indebted-*
16 *ness with respect to policies and contracts covering*
17 *such individual does not exceed \$50,000.*

18 “(2) *INTEREST RATE CAP ON KEY PERSONS AND*
19 *PRE-1986 CONTRACTS.*—

20 “(A) *IN GENERAL.*—No deduction shall be
21 *allowed by reason of paragraph (1) or the last*
22 *sentence of subsection (a) with respect to interest*
23 *paid or accrued for any month to the extent the*
24 *amount of such interest exceeds the amount*

1 *which would have been determined if the appli-*
2 *cable rate of interest were used for such month.*

3 “(B) *APPLICABLE RATE OF INTEREST.—For*
4 *purposes of subparagraph (A)—*

5 “(i) *IN GENERAL.—The applicable rate*
6 *of interest for any month is the rate of in-*
7 *terest described as Moody’s Corporate Bond*
8 *Yield Average-Monthly Average Corporates*
9 *as published by Moody’s Investors Service,*
10 *Inc., or any successor thereto, for such*
11 *month.*

12 “(ii) *PRE-1986 CONTRACT.—In the case*
13 *of indebtedness on a contract to which the*
14 *last sentence of subsection (a) applies—*

15 “(I) *which is a contract providing*
16 *a fixed rate of interest, the applicable*
17 *rate of interest for any month shall be*
18 *the Moody’s rate described in clause (i)*
19 *for the month in which the contract*
20 *was purchased, or*

21 “(II) *which is a contract provid-*
22 *ing a variable rate of interest, the ap-*
23 *plicable rate of interest for any month*
24 *in an applicable period shall be such*

1 *Moody's rate for the last month preced-*
2 *ing such period.*

3 *For purposes of subclause (II), the taxpayer*
4 *shall elect an applicable period for such*
5 *contract on its return of tax imposed by*
6 *this chapter for its first taxable year ending*
7 *on or after October 13, 1995. Such applica-*
8 *ble period shall be for any number of*
9 *months (not greater than 12) specified in*
10 *the election and may not be changed by the*
11 *taxpayer without the consent of the Sec-*
12 *retary.*

13 *“(3) KEY PERSON.—For purposes of paragraph*
14 *(1), the term ‘key person’ means an officer or 20-per-*
15 *cent owner, except that the number of individuals who*
16 *may be treated as key persons with respect to any*
17 *taxpayer shall not exceed the greater of—*

18 *“(A) 5 individuals, or*

19 *“(B) the lesser of 5 percent of the total offi-*
20 *cers and employees of the taxpayer or 10 indi-*
21 *viduals.*

22 *“(4) 20-PERCENT OWNER.—For purposes of this*
23 *subsection, the term ‘20-percent owner’ means—*

24 *“(A) if the taxpayer is a corporation, any*
25 *person who owns directly 20 percent or more of*

1 *the outstanding stock of the corporation or stock*
2 *possessing 20 percent or more of the total com-*
3 *bined voting power of all stock of the corpora-*
4 *tion, or*

5 *“(B) if the taxpayer is not a corporation,*
6 *any person who owns 20 percent or more of the*
7 *capital or profits interest in the employer.*

8 “(5) *AGGREGATION RULES.—*

9 *“(A) IN GENERAL.—For purposes of para-*
10 *graph (4)(A) and applying the \$50,000 limita-*
11 *tion in paragraph (1)—*

12 *“(i) all members of a controlled group*
13 *shall be treated as 1 taxpayer, and*

14 *“(ii) such limitation shall be allocated*
15 *among the members of such group in such*
16 *manner as the Secretary may prescribe.*

17 *“(B) CONTROLLED GROUP.—For purposes*
18 *of this paragraph, all persons treated as a single*
19 *employer under subsection (a) or (b) of section*
20 *52 or subsection (m) or (o) of section 414 shall*
21 *be treated as members of a controlled group.”.*

22 *(c) EFFECTIVE DATES.—*

23 *(1) IN GENERAL.—The amendments made by*
24 *this section shall apply to interest paid or accrued*
25 *after December 31, 1995.*

1 (2) *TRANSITION RULE FOR EXISTING INDEBTED-*
2 *NESS.*—

3 (A) *IN GENERAL.*—*In the case of—*

4 (i) *indebtedness incurred before Janu-*
5 *ary 1, 1996, or*

6 (ii) *indebtedness incurred before Janu-*
7 *ary 1, 1997 with respect to any contract or*
8 *policy entered into in 1994 or 1995,*

9 *the amendments made by this section shall not*
10 *apply to qualified interest paid or accrued on*
11 *such indebtedness after October 13, 1995, and be-*
12 *fore January 1, 1999.*

13 (B) *QUALIFIED INTEREST.*—*For purposes of*
14 *subparagraph (A), the qualified interest with re-*
15 *spect to any indebtedness for any month is the*
16 *amount of interest which would be paid or ac-*
17 *crued for such month on such indebtedness if—*

18 (i) *in the case of any interest paid or*
19 *accrued after December 31, 1995, indebted-*
20 *ness with respect to no more than 20,000*
21 *insured individuals were taken into ac-*
22 *count, and*

23 (ii) *the lesser of the following rates of*
24 *interest were used for such month:*

1 (I) *The rate of interest specified*
 2 *under the terms of the indebtedness as*
 3 *in effect on October 13, 1995 (and*
 4 *without regard to modification of such*
 5 *terms after such date).*

6 (II) *The applicable percentage*
 7 *rate of interest described as Moody's*
 8 *Corporate Bond Yield Average-Monthly*
 9 *Average Corporates as published by*
 10 *Moody's Investors Service, Inc., or any*
 11 *successor thereto, for such month.*

12 *For purposes of clause (i), all persons treated as*
 13 *a single employer under subsection (a) or (b) of*
 14 *section 52 of the Internal Revenue Code of 1986*
 15 *or subsection (m) or (o) of section 414 of such*
 16 *Code shall be treated as one person.*

17 (C) *APPLICABLE PERCENTAGE.—For pur-*
 18 *poses of subparagraph (B), the applicable per-*
 19 *centage is as follows:*

For calendar year:	The percentage is:
1995	100 percent
1996	90 percent
1997	80 percent
1998	70 percent.

20 (3) *SPECIAL RULE FOR GRANDFATHERED CON-*
 21 *TRACTS.—This section shall not apply to any con-*
 22 *tract purchased on or before June 20, 1986, except*
 23 *that section 264(d)(2) of the Internal Revenue Code of*

1 1986 shall apply to interest paid or accrued after Oc-
2 tober 13, 1995.

3 (d) *SPREAD OF INCOME INCLUSION ON SURRENDER,*
4 *ETC. OF CONTRACTS.—*

5 (1) *IN GENERAL.—*If any amount is received
6 under any life insurance policy or endowment or an-
7 nuity contract described in paragraph (4) of section
8 264(a) of the Internal Revenue Code of 1986—

9 (A) on the complete surrender, redemption,
10 or maturity of such policy or contract during
11 calendar year 1996, 1997, or 1998, or

12 (B) in full discharge during any such cal-
13 endar year of the obligation under the policy or
14 contract which is in the nature of a refund of the
15 consideration paid for the policy or contract,
16 then (in lieu of any other inclusion in gross income)
17 such amount shall be includible in gross income rat-
18 ably over the 4-taxable year period beginning with the
19 taxable year such amount would (but for this para-
20 graph) be includible. The preceding sentence shall
21 only apply to the extent the amount is includible in
22 gross income for the taxable year in which the event
23 described in subparagraph (A) or (B) occurs.

24 (2) *SPECIAL RULES FOR APPLYING SECTION*
25 264.—A contract shall not be treated as—

1 (A) failing to meet the requirement of sec-
2 tion 264(c)(1) of the Internal Revenue Code of
3 1986, or

4 (B) a single premium contract under sec-
5 tion 264(b)(1) of such Code,
6 solely by reason of an occurrence described in sub-
7 paragraph (A) or (B) of paragraph (1) of this sub-
8 section or solely by reason of no additional premiums
9 being received under the contract by reason of a lapse
10 occurring after October 13, 1995.

11 (3) *SPECIAL RULE FOR DEFERRED ACQUISITION*
12 *COSTS.*—*In the case of the occurrence of any event de-*
13 *scribed in subparagraph (A) or (B) of paragraph (1)*
14 *of this subsection with respect to any policy or con-*
15 *tract—*

16 (A) *section 848 of the Internal Revenue*
17 *Code of 1986 shall not apply to the unamortized*
18 *balance (if any) of the specified policy acquisi-*
19 *tion expenses attributable to such policy or con-*
20 *tract immediately before the insurance compa-*
21 *ny's taxable year in which such event occurs,*
22 *and*

23 (B) *there shall be allowed as a deduction to*
24 *such company for such taxable year under chap-*

1 *ter 1 of such Code an amount equal to such*
2 *unamortized balance.*

3 **SEC. 11304. TERMINATION OF SUSPENSE ACCOUNTS FOR**
4 **FAMILY CORPORATIONS REQUIRED TO USE**
5 **ACCRUAL METHOD OF ACCOUNTING.**

6 *(a) IN GENERAL.—Subsection (i) of section 447 (relat-*
7 *ing to method of accounting for corporations engaged in*
8 *farming) is amended by adding at the end the following*
9 *new paragraph:*

10 *“(7) TERMINATION.—*

11 *“(A) IN GENERAL.—No suspense account*
12 *may be established under this subsection by any*
13 *corporation required by this section to change its*
14 *method of accounting for any taxable year end-*
15 *ing after September 13, 1995.*

16 *“(B) 20-YEAR PHASEOUT OF EXISTING SUS-*
17 *PENSE ACCOUNTS.—Each suspense account*
18 *under this subsection shall be reduced (but not*
19 *below zero) for each of the first 20 taxable years*
20 *beginning after September 13, 1995, by an*
21 *amount equal to the applicable portion of such*
22 *account. Any reduction in a suspense account*
23 *under this paragraph shall be included in gross*
24 *income for the taxable year of the reduction. The*
25 *amount of the reduction required under this*

1 *paragraph for any taxable year shall be reduced*
2 *(but not below zero) by the amount of any reduc-*
3 *tion required for such taxable year under any*
4 *other provision of this subsection.*

5 “(C) *APPLICABLE PORTION.*—*For purposes*
6 *of subparagraph (B), the term ‘applicable por-*
7 *tion’ means, for any taxable year, the amount*
8 *which would ratably reduce the amount in the*
9 *account (after taking into account prior reduc-*
10 *tions) to zero over the period consisting of such*
11 *taxable year and the remaining taxable years in*
12 *such first 20 taxable years.”.*

13 (b) *EFFECTIVE DATE.*—*The amendment made by this*
14 *section shall apply to taxable years ending after September*
15 *13, 1995.*

16 ***SEC. 11305. TERMINATION OF PUERTO RICO AND POSSES-***
17 ***SION TAX CREDIT.***

18 (a) *IN GENERAL.*—*Section 936 is amended by adding*
19 *at the end the following new subsection:*

20 “(j) *TERMINATION.*—

21 “(1) *IN GENERAL.*—*Except as otherwise provided*
22 *in this subsection, this section shall not apply to any*
23 *taxable year beginning after December 31, 1995.*

1 “(2) *TRANSITION RULES FOR ACTIVE BUSINESS*
2 *INCOME CREDIT.—Except as provided in paragraph*
3 *(3)—*

4 “(A) *IN GENERAL.—In the case of an exist-*
5 *ing credit claimant to which subsection (a)(4)(B)*
6 *does not apply, the credit determined under sub-*
7 *section (a)(1)(A) shall be allowed for taxable*
8 *years beginning after December 31, 1995, and*
9 *before January 1, 2002.*

10 “(B) *SPECIAL RULE FOR REDUCED CRED-*
11 *IT.—*

12 “(i) *IN GENERAL.—In the case of an*
13 *existing credit claimant to which subsection*
14 *(a)(4)(B) applies, the credit determined*
15 *under subsection (a)(1)(A) shall be allowed*
16 *for taxable years beginning after December*
17 *31, 1995, and before January 1, 1998.*

18 “(ii) *ELECTION IRREVOCABLE AFTER*
19 *1997.—An election under subsection*
20 *(a)(4)(B)(iii) which is in effect for the tax-*
21 *payer’s last taxable year beginning before*
22 *1997 may not be revoked unless it is re-*
23 *voked for the taxpayer’s first taxable year*
24 *beginning in 1997 and all subsequent tax-*
25 *able years.*

1 “(3) *ADDITIONAL RESTRICTED CREDIT.*—

2 “(A) *IN GENERAL.*—*In the case of an exist-*
3 *ing credit claimant—*

4 “(i) *the credit under subsection*
5 *(a)(1)(A) shall be allowed for the period be-*
6 *ginning with the first taxable year after the*
7 *last taxable year to which subparagraph (A)*
8 *or (B) of paragraph (2), whichever is ap-*
9 *propriate, applied and ending with the last*
10 *taxable year beginning before January 1,*
11 *2006, except that*

12 “(ii) *the aggregate amount of taxable*
13 *income taken into account under subsection*
14 *(a)(1)(A) for any such taxable year shall*
15 *not exceed the adjusted base period income*
16 *of such claimant.*

17 “(B) *COORDINATION WITH SUBSECTION*
18 *(a)(4).*—*The amount of income described in sub-*
19 *section (a)(1)(A) which is taken into account in*
20 *applying subsection (a)(4) shall be such income*
21 *as reduced under this paragraph.*

22 “(4) *ADJUSTED BASE PERIOD INCOME.*—*For*
23 *purposes of paragraph (3)—*

24 “(A) *IN GENERAL.*—*The term ‘adjusted base*
25 *period income’ means the average of the infla-*

1 *tion-adjusted possession incomes of the corpora-*
2 *tion for each base period year.*

3 “(B) *INFLATION-ADJUSTED POSSESSION IN-*
4 *COME.—For purposes of subparagraph (A), the*
5 *inflation-adjusted possession income of any cor-*
6 *poration for any base period year shall be an*
7 *amount equal to the sum of—*

8 “(i) *the possession income of such cor-*
9 *poration for such base period year, plus*

10 “(ii) *such possession income multiplied*
11 *by the inflation adjustment percentage for*
12 *such base period year.*

13 “(C) *INFLATION ADJUSTMENT PERCENT-*
14 *AGE.—For purposes of subparagraph (B), the in-*
15 *flation adjustment percentage for any base pe-*
16 *riod year means the percentage (if any) by*
17 *which—*

18 “(i) *the CPI for 1995, exceeds*

19 “(ii) *the CPI for the calendar year in*
20 *which the base period year for which the de-*
21 *termination is being made ends.*

22 *For purposes of the preceding sentence, the CPI*
23 *for any calendar year is the CPI (as defined in*
24 *section 1(f)(5)) for such year under section*
25 *1(f)(4).*

1 “(D) *INCREASE IN INFLATION ADJUSTMENT*
2 *PERCENTAGE FOR GROWTH DURING BASE*
3 *YEARS.—The inflation adjustment percentage*
4 *(determined under subparagraph (C) without re-*
5 *gard to this subparagraph) for each of the 5 tax-*
6 *able years referred to in paragraph (5)(A) shall*
7 *be increased by—*

8 “(i) *5 percentage points in the case of*
9 *a taxable year ending during the 1-year pe-*
10 *riod ending on October 13, 1995;*

11 “(ii) *10.25 percentage points in the*
12 *case of a taxable year ending during the 1-*
13 *year period ending on October 13, 1994;*

14 “(iii) *15.76 percentage points in the*
15 *case of a taxable year ending during the 1-*
16 *year period ending on October 13, 1993;*

17 “(iv) *21.55 percentage points in the*
18 *case of a taxable year ending during the 1-*
19 *year period ending on October 13, 1992;*
20 *and*

21 “(v) *27.63 percentage points in the*
22 *case of a taxable year ending during the 1-*
23 *year period ending on October 13, 1991.*

24 “(5) *BASE PERIOD YEAR.—For purposes of this*
25 *subsection—*

1 “(A) *IN GENERAL.*—*The term ‘base period*
2 *year’ means each of 3 taxable years which are*
3 *among the 5 most recent taxable years of the cor-*
4 *poration ending before October 14, 1995, deter-*
5 *mined by disregarding—*

6 “(i) *one taxable year for which the cor-*
7 *poration had the largest inflation-adjusted*
8 *possession income, and*

9 “(ii) *one taxable year for which the*
10 *corporation had the smallest inflation-ad-*
11 *justed possession income.*

12 “(B) *CORPORATIONS NOT HAVING SIGNIFI-*
13 *CANT POSSESSION INCOME THROUGHOUT 5-YEAR*
14 *PERIOD.*—

15 “(i) *IN GENERAL.*—*If a corporation*
16 *does not have significant possession income*
17 *for each of the most recent 5 taxable years*
18 *ending before October 14, 1995, then, in lieu*
19 *of applying subparagraph (A), the term*
20 *‘base period year’ means only those taxable*
21 *years (of such 5 taxable years) for which the*
22 *corporation has significant possession in-*
23 *come; except that, if such corporation has*
24 *significant possession income for 4 of such*

1 5 taxable years, the rule of subparagraph
2 (A)(ii) shall apply.

3 “(ii) *SPECIAL RULE.*—If there is no
4 year (of such 5 taxable years) for which a
5 corporation has significant possession in-
6 come—

7 “(I) the term ‘base period year’
8 means the first taxable year ending on
9 or after October 14, 1995, but

10 “(II) the amount of possession in-
11 come for such year which is taken into
12 account under paragraph (4) shall be
13 the amount which would be determined
14 if such year were a short taxable year
15 ending on September 30, 1995.

16 “(iii) *SIGNIFICANT POSSESSION IN-*
17 *COME.*—For purposes of this subparagraph,
18 the term ‘significant possession income’
19 means possession income which exceeds 2
20 percent of the possession income of the tax-
21 payer for the taxable year (of the period of
22 6 taxable years ending with the first taxable
23 year ending on or after October 14, 1995)
24 having the greatest possession income.

1 “(C) *ELECTION TO USE ONE BASE PERIOD*
2 *YEAR.*—

3 “(i) *IN GENERAL.*—*At the election of*
4 *the taxpayer, the term ‘base period year’*
5 *means—*

6 “(I) *only the last taxable year of*
7 *the corporation ending in calendar*
8 *year 1992, or*

9 “(II) *a deemed taxable year which*
10 *includes the first ten months of cal-*
11 *endar year 1995.*

12 “(ii) *BASE PERIOD INCOME FOR*
13 *1995.*—*In determining the adjusted base pe-*
14 *riod income of the corporation for the*
15 *deemed taxable year under clause (i)(II),*
16 *the possession income shall be annualized*
17 *and shall be determined without regard to*
18 *any extraordinary item.*

19 “(iii) *ELECTION.*—*An election under*
20 *this subparagraph by any possession cor-*
21 *poration may be made only for the corpora-*
22 *tion’s first taxable year beginning after De-*
23 *cember 31, 1995, for which it is a possession*
24 *corporation. The rules of subclauses (II)*
25 *and (III) of subsection (a)(4)(B)(iii) shall*

1 *apply to the election under this subpara-*
2 *graph.*

3 “(D) *ACQUISITIONS AND DISPOSITIONS.*—
4 *Rules similar to the rules of subparagraphs (A)*
5 *and (B) of section 41(f)(3) shall apply for pur-*
6 *poses of this subsection.*

7 “(6) *POSSESSION INCOME.*—*For purposes of this*
8 *subsection, the term ‘possession income’ means the in-*
9 *come referred to in subsection (a)(1)(A), except that*
10 *there shall not be taken into account any such income*
11 *from an applicable possession (as defined in para-*
12 *graph (8)(B)). In no event shall possession income be*
13 *treated as being less than zero.*

14 “(7) *SHORT YEARS.*—*If the current year or a*
15 *base period year is a short taxable year, the applica-*
16 *tion of this subsection shall be made with such*
17 *annualizations as the Secretary shall prescribe.*

18 “(8) *SPECIAL RULES FOR CERTAIN POSSES-*
19 *SIONS.*—

20 “(A) *IN GENERAL.*—*In the case of an exist-*
21 *ing credit claimant with respect to an applicable*
22 *possession, this section (other than the preceding*
23 *paragraphs of this subsection) shall apply to tax-*
24 *able years beginning after December 31, 1995,*
25 *and before January 1, 2006.*

1 “(B) *APPLICABLE POSSESSION.*—For pur-
2 poses of this paragraph, the term ‘applicable pos-
3 session’ means Guam, American Samoa, and the
4 Commonwealth of the Northern Mariana Islands.

5 “(9) *EXISTING CREDIT CLAIMANT.*—For purposes
6 of this subsection—

7 “(A) *IN GENERAL.*—The term ‘existing cred-
8 it claimant’ means a corporation—

9 “(i) which was actively conducting a
10 trade or business in a possession on October
11 13, 1995, and

12 “(ii) with respect to which an election
13 under this section is in effect for the cor-
14 poration’s taxable year which includes Octo-
15 ber 13, 1995.

16 “(B) *NEW LINES OF BUSINESS PROHIB-*
17 *ITED.*—If, after October 13, 1995, a corporation
18 which would (but for this subparagraph) be an
19 existing credit claimant adds a substantial new
20 line of business, such corporation shall cease to
21 be treated as an existing credit claimant as of
22 the close of the taxable year ending before the
23 date of such addition.

24 “(C) *BINDING CONTRACT EXCEPTION.*—If,
25 on October 13, 1995, and at all times thereafter,

1 *there is in effect with respect to a corporation a*
2 *binding contract for the acquisition of assets to*
3 *be used in, or for the sale of assets to be produced*
4 *from, a trade or business, the corporation shall*
5 *be treated for purposes of this paragraph as ac-*
6 *tively conducting such trade or business on Octo-*
7 *ber 13, 1995. The preceding sentence shall not*
8 *apply if such trade or business is not actively*
9 *conducted before January 1, 1996.*

10 “(D) *SPECIAL RULE FOR APPLICABLE POS-*
11 *SESSIONS.—In determining under paragraph (8)*
12 *whether a taxpayer is an existing credit claim-*
13 *ant with respect to an applicable possession, this*
14 *paragraph shall be applied separately with re-*
15 *spect to such possession.”*

16 **(b) EFFECTIVE DATE.**—*The amendment made by this*
17 *section shall apply to taxable years beginning after Decem-*
18 *ber 31, 1995.*

19 **SEC. 11306. DEPRECIATION UNDER INCOME FORECAST**
20 **METHOD.**

21 **(a) GENERAL RULE.**—*Section 167 (relating to depre-*
22 *ciation) is amended by redesignating subsection (g) as sub-*
23 *section (h) and by inserting after subsection (f) the follow-*
24 *ing new subsection:*

1 “(g) *DEPRECIATION UNDER INCOME FORECAST*
2 *METHOD.*—

3 “(1) *IN GENERAL.*—*If the depreciation deduction*
4 *allowable under this section to any taxpayer with re-*
5 *spect to any property is determined under the income*
6 *forecast method or any similar method—*

7 “(A) *in determining the amount of the de-*
8 *preciation deduction under such method, the esti-*
9 *mated income from the property shall include all*
10 *income earned before the close of the 10th taxable*
11 *year following the taxable year in which the*
12 *property was placed in service in connection*
13 *with the ultimate use of the property by, or the*
14 *ultimate sale of merchandise to, persons who are*
15 *not related persons (within the meaning of sec-*
16 *tion 267(b)) to the taxpayer,*

17 “(B) *the adjusted basis of the property shall*
18 *only include amounts with respect to which the*
19 *requirements of section 461(h) are satisfied,*

20 “(C) *the depreciation deduction under such*
21 *method for the 10th taxable year beginning after*
22 *the taxable year in which the property was*
23 *placed in service shall be equal to the adjusted*
24 *basis of such property as of the beginning of such*
25 *10th taxable year, and*

1 “(D) such taxpayer shall pay (or be entitled
2 to receive) interest computed under the look-back
3 method of paragraph (2) for any recomputation
4 year.

5 “(2) LOOK-BACK METHOD.—The interest com-
6 puted under the look-back method of this paragraph
7 for any recomputation year shall be determined by—

8 “(A) first determining the depreciation de-
9 ductions under this section with respect to such
10 property which would have been allowable for
11 prior taxable years if the determination of the
12 amounts so allowable had been made on the basis
13 of the sum of the following (instead of the esti-
14 mated income with respect to such property)—

15 “(i) the actual income from such prop-
16 erty for periods before the close of the recom-
17 putation year, and

18 “(ii) an estimate of the future income
19 with respect to such property for periods
20 after the recomputation year,

21 “(B) second, determining (solely for pur-
22 poses of computing such interest) the overpay-
23 ment or underpayment of tax for each such prior
24 taxable year which would result solely from the
25 application of subparagraph (A), and

1 “(C) then using the adjusted overpayment
2 rate (as defined in section 460(b)(7)),
3 compounded daily, on the overpayment or
4 underpayment determined under subparagraph
5 (B).

6 For purposes of the preceding sentence, any cost in-
7 curred after the property is placed in service (which
8 is not treated as a separate property under para-
9 graph (5)) shall be taken into account by discounting
10 (using the Federal mid-term rate determined under
11 section 1274(d) as of the time such cost is incurred)
12 such cost to its value as of the date the property is
13 placed in service. The taxpayer may elect with respect
14 to any property to have the preceding sentence not
15 apply to such property.

16 “(3) *EXCEPTION FROM LOOK-BACK METHOD.*—
17 Paragraph (1)(D) shall not apply with respect to any
18 property which, when placed in service by the tax-
19 payer, had a basis of \$100,000 or less.

20 “(4) *RECOMPUTATION YEAR.*—For purposes of
21 this subsection, except as provided in regulations, the
22 term ‘recomputation year’ means, with respect to any
23 property, the third and the 10th taxable years begin-
24 ning after the taxable year in which the property was
25 placed in service, unless the actual income from the

1 *property for the period before the close of such third*
2 *or 10th taxable year is within 10 percent of the esti-*
3 *mated income from the property for such period*
4 *which was taken into account under paragraph*
5 *(1)(A).*

6 *“(5) SPECIAL RULES.—*

7 *“(A) CERTAIN COSTS TREATED AS SEPA-*
8 *RATE PROPERTY.—For purposes of this sub-*
9 *section, the following costs shall be treated as*
10 *separate properties:*

11 *“(i) Any costs incurred with respect to*
12 *any property after the 10th taxable year be-*
13 *ginning after the taxable year in which the*
14 *property was placed in service.*

15 *“(ii) Any costs incurred after the prop-*
16 *erty is placed in service and before the close*
17 *of such 10th taxable year if such costs are*
18 *significant and give rise to a significant in-*
19 *crease in the income from the property*
20 *which was not included in the estimated in-*
21 *come from the property.*

22 *“(B) SYNDICATION INCOME FROM TELE-*
23 *VISION SERIES.—In the case of property which is*
24 *an episode in a television series, income from*
25 *syndicating such series shall not be required to*

1 *be taken into account under this subsection be-*
2 *fore the earlier of—*

3 *“(i) the 4th taxable year beginning*
4 *after the date the first episode in such series*
5 *is placed in service, or*

6 *“(ii) the earliest taxable year in which*
7 *the taxpayer has an arrangement relating*
8 *to the future syndication of such series.*

9 *“(C) COLLECTION OF INTEREST.—For pur-*
10 *poses of subtitle F (other than sections 6654 and*
11 *6655), any interest required to be paid by the*
12 *taxpayer under paragraph (1) for any recom-*
13 *putation year shall be treated as an increase in*
14 *the tax imposed by this chapter for such year.*

15 *“(D) DETERMINATIONS.—For purposes of*
16 *paragraph (2), determinations of the amount of*
17 *income from any property shall be determined in*
18 *the same manner as for purposes of applying the*
19 *income forecast method; except that any income*
20 *from the disposition of such property shall be*
21 *taken into account.*

22 *“(E) TREATMENT OF PASS-THRU ENTI-*
23 *TIES.—Rules similar to the rules of section*
24 *460(b)(4) shall apply for purposes of this sub-*
25 *section.”.*

1 (b) *EFFECTIVE DATE.*—

2 (1) *IN GENERAL.*—*The amendment made by sub-*
3 *section (a) shall apply to property placed in service*
4 *after September 13, 1995.*

5 (2) *BINDING CONTRACTS.*—*The amendment*
6 *made by subsection (a) shall not apply to any prop-*
7 *erty produced or acquired by the taxpayer pursuant*
8 *to a written contract which was binding on Septem-*
9 *ber 13, 1995, and at all times thereafter before such*
10 *production or acquisition.*

11 ***SEC. 11307. TRANSFERS OF EXCESS PENSION ASSETS.***

12 (a) *IN GENERAL.*—*Section 420 (relating to transfers*
13 *of excess pension assets to retiree health accounts) is amend-*
14 *ed by adding at the end the following new subsection:*

15 “(f) *SIMILAR RULES TO APPLY TO OTHER TRANSFERS*
16 *OF EXCESS PLAN ASSETS.*—

17 “(1) *IN GENERAL.*—*If there is a qualified em-*
18 *ployee benefit transfer of any excess pension assets of*
19 *a defined benefit plan (other than a multiemployer*
20 *plan) to an employer—*

21 “(A) *a trust which is part of such plan*
22 *shall not be treated as failing to meet the re-*
23 *quirements of section 401(a) solely by reason of*
24 *such transfer (or any other action authorized*
25 *under this section), and*

1 “(B) such transfer shall not be treated as—

2 “(i) an employer reversion for purposes
3 of section 4980, or

4 “(ii) a prohibited transaction for pur-
5 poses of section 4975.

6 *The gross income of the employer shall include the*
7 *amount of any qualified employee benefit transfer*
8 *made during the taxable year.*

9 “(2) *QUALIFIED EMPLOYEE BENEFIT TRANS-*
10 *FER.—For purposes of this section—*

11 “(A) *IN GENERAL.—The term ‘qualified em-*
12 *ployee benefit transfer’ means a transfer—*

13 “(i) *of excess pension assets of a de-*
14 *finied benefit plan to the employer, and*

15 “(ii) *with respect to which—*

16 “(I) *the use requirements of para-*
17 *graph (3) are met, and*

18 “(II) *the requirements of sub-*
19 *section (c)(2)(A) are met (determined*
20 *by treating such transfer as a qualified*
21 *transfer).*

22 “(B) *LIMITATION ON AMOUNTS TRANS-*
23 *FERRED.—The amount of excess pension assets*
24 *which may be transferred in qualified employee*
25 *benefit transfers during any taxable year shall*

1 *not exceed the amount which is reasonably esti-*
2 *mated to be the amount the employer maintain-*
3 *ing the plan will pay (whether directly or*
4 *through reimbursement) during the taxable year*
5 *for qualified current employee benefit liabilities.*

6 “(C) *COORDINATION WITH TRANSFERS TO*
7 *RETIREE HEALTH ACCOUNTS.—Such term shall*
8 *not include any qualified transfer (as defined in*
9 *subsection (b)).*

10 “(D) *EXPIRATION.—No transfer in any tax-*
11 *able year beginning after December 31, 2001,*
12 *shall be treated as a qualified employee benefit*
13 *transfer.*

14 “(3) *RESTRICTIONS ON USE OF TRANSFERRED*
15 *ASSETS.—*

16 “(A) *IN GENERAL.—Any assets transferred*
17 *to an employer in a qualified employee benefit*
18 *transfer shall be used only to pay qualified cur-*
19 *rent employee benefit liabilities for the taxable*
20 *year of the transfer (whether directly or through*
21 *reimbursement).*

22 “(B) *AMOUNTS NOT USED TO PAY BENE-*
23 *FITS.—An employer shall transfer to a plan an*
24 *amount equal to any assets transferred out of the*
25 *plan in a qualified employee benefit transfer*

1 *which are not used as provided in subparagraph*
2 *(A). Such amount shall be treated in the same*
3 *manner as amounts are treated under subsection*
4 *(c)(1)(B), except that allocable income shall be*
5 *determined by using the Federal short-term rate*
6 *under section 1274(d).*

7 “(C) *QUALIFIED CURRENT EMPLOYEE BEN-*
8 *EFIT LIABILITIES.—For purposes of this sub-*
9 *section—*

10 “(i) *IN GENERAL.—The term ‘qualified*
11 *current employee benefit liabilities’ means,*
12 *with respect to any taxable year, the aggre-*
13 *gate amounts (including administrative ex-*
14 *penditures) for which a deduction is allowable*
15 *to the employer for such taxable year with*
16 *respect to applicable employee benefits.*

17 “(ii) *APPLICABLE EMPLOYEE BENE-*
18 *FITS.—The term ‘applicable employee bene-*
19 *fits’ means—*

20 “(I) *contributions to a trust de-*
21 *scribed in section 401(a) which is ex-*
22 *empt from tax under section 501(a),*

23 “(II) *benefits under an accident*
24 *or health plan (within the meaning of*
25 *section 105),*

1 “(III) disability benefits,

2 “(IV) benefits under an edu-
3 cational assistance program of the em-
4 ployer described in section 127(b), and

5 “(V) benefits under a dependent
6 care assistance program of the em-
7 ployer described in section 129(d).

8 “(4) DEFINITION AND SPECIAL RULES.—For
9 purposes of this subsection—

10 “(A) EXCESS PENSION ASSETS.—The term
11 ‘excess pension assets’ has the meaning given
12 such term by subsection (e)(2).

13 “(B) COORDINATION WITH SECTION 412.—
14 In the case of a qualified employee benefit trans-
15 fer—

16 “(i) any assets transferred in a plan
17 year on or before the valuation date for such
18 year (and any income allocable thereto)
19 shall, for purposes of section 412, be treated
20 as assets in the plan as of the valuation
21 date for such year, and

22 “(ii) the plan shall be treated as hav-
23 ing a net experience loss under section
24 412(b)(2)(B)(iv) in an amount equal to the
25 amount of such transfer and for which am-

1 *ortization charges begin for the first plan*
2 *year after the plan year in which such*
3 *transfer occurs, except that such section*
4 *shall be applied to such amount by sub-*
5 *stituting ‘10 plan years’ for ‘5 plan years’.”*

6 *(b) EXCESS ASSETS.—Section 420(e)(2) is amended to*
7 *read as follows:*

8 *“(2) EXCESS PENSION ASSETS.—The term ‘excess*
9 *pension assets’ means the excess (if any) of—*

10 *“(A) the amount determined under section*
11 *412(c)(7)(A)(ii), over*

12 *“(B) the greater of—*

13 *“(i) the amount determined under sec-*
14 *tion 412(c)(7)(A)(i)(II), or*

15 *“(ii) 125 percent of termination liabil-*
16 *ity determined under section 414(l), except*
17 *that the actuarial assumptions used in*
18 *making such determinations shall be the as-*
19 *sumptions used by the Pension Benefit*
20 *Guaranty Corporation for single-employer*
21 *plan termination purposes under regula-*
22 *tions under title IV of the Employee Retirement*
23 *Income Security Act of 1974.*

24 *The determination under the preceding sentence with*
25 *respect to any transfer shall be made as of the date*

1 *of the transfer. No substantial changes in the regula-*
2 *tions described in clause (ii) which are made after the*
3 *date of the enactment of the Revenue Reconciliation*
4 *Act of 1995 shall be taken into account for purposes*
5 *of such clause.”*

6 (c) *TAXPAYERS IN BANKRUPTCY MAY NOT MAKE*
7 *TRANSFERS.—Section 420(e) is amended by adding at the*
8 *end the following new paragraph:*

9 “(5) *EXCLUSION OF TAXPAYERS IN BANK-*
10 *RUPTCY.—No qualified transfer or qualified employee*
11 *benefit transfer may be made under this section by a*
12 *taxpayer if—*

13 “(A) *the taxpayer has filed, or has had filed*
14 *against it, a petition in a title 11 or similar*
15 *case (within the meaning of section 368(a)(3)),*
16 *and*

17 “(B) *such case is still pending.”*

18 (d) *CONFORMING AMENDMENTS TO ERISA.—*

19 (1) *NOTICE.—Section 101(e) of the Employee*
20 *Retirement Income Security Act of 1974 (29 U.S.C.*
21 *1021(e)) is amended—*

22 (A) *by inserting “or a qualified employee*
23 *benefit transfer,” after “to a health benefits ac-*
24 *count,” in paragraphs (1) and (2)(A),*

1 (B) by inserting “or qualified employee ben-
2 efits” after “the amount of health benefits liabil-
3 ities” in paragraph (1),

4 (C) in paragraph (3)—

5 (i) by striking “January 1, 1995” and
6 inserting “the date of the enactment of the
7 Revenue Reconciliation Act of 1995”, and

8 (ii) by striking “paragraph (1)” and
9 inserting “this subsection”, and

10 (D) by striking “TO HEALTH BENEFITS AC-
11 COUNTS” in the heading.

12 (2) *EXCLUSIVE BENEFIT.*—Paragraph (1) of sec-
13 tion 403(c) of such Act (29 U.S.C. 1103(c)(1)) is
14 amended by striking “January 1, 1995” and insert-
15 ing “the date of the enactment of the Revenue Rec-
16 onciliation Act of 1995”.

17 (3) *EXEMPTION FROM PROHIBITED TRANS-*
18 *ACTION.*—Paragraph (13) of section 408(b) of such
19 Act (29 U.S.C. 1108(b)(13)) is amended—

20 (A) by striking “retiree health account” and
21 inserting “health benefits account”,

22 (B) by inserting before the period at the end
23 “, or any transfer of such assets in a taxable
24 year beginning before January 1, 2002, in a

1 *qualified employee benefit transfer permitted*
2 *under such section 420”, and*

3 *(C) by striking “January 1, 1995” and in-*
4 *serting “the date of the enactment of the Revenue*
5 *Reconciliation Act of 1995”.*

6 *(e) EFFECTIVE DATES.—*

7 *(1) IN GENERAL.—The amendments made by*
8 *this section shall apply to transfers on and after the*
9 *date of the enactment of this Act.*

10 *(2) QUALIFIED TRANSFERS.—To the extent the*
11 *amendments made by subsections (b), (c), and (d)*
12 *apply to qualified transfers under section 420 of the*
13 *Internal Revenue Code of 1986 (as in effect on the*
14 *day before the date of the enactment of this Act), such*
15 *amendments shall apply to transfers occurring after*
16 *December 31, 1995.*

17 **SEC. 11308. REPEAL OF EXCLUSION FOR INTEREST ON**
18 **LOANS USED TO ACQUIRE EMPLOYER SECU-**
19 **RITIES.**

20 *(a) IN GENERAL.—Section 133 (relating to interest on*
21 *certain loans used to acquire employer securities) is hereby*
22 *repealed.*

23 *(b) CONFORMING AMENDMENTS.—*

1 (1) *Subparagraph (B) of section 291(e)(1) is*
2 *amended by striking clause (iv) and by redesignating*
3 *clause (v) as clause (iv).*

4 (2) *Section 812 is amended by striking sub-*
5 *section (g).*

6 (3) *Paragraph (5) of section 852(b) is amended*
7 *by striking subparagraph (C).*

8 (4) *Paragraph (2) of section 4978(b) is amended*
9 *by striking subparagraph (A) and all that follows and*
10 *inserting the following:*

11 *“(A) first from qualified securities to which*
12 *section 1042 applied acquired during the 3-year*
13 *period ending on the date of the disposition, be-*
14 *ginning with the securities first so acquired, and*

15 *“(B) then from any other employer securi-*
16 *ties.*

17 *If subsection (d) applies to a disposition, the disposi-*
18 *tion shall be treated as made from employer securities*
19 *in the opposite order of the preceding sentence.”.*

20 (5)(A) *Section 4978B (relating to tax on disposi-*
21 *tion of employer securities to which section 133 ap-*
22 *plied) is hereby repealed.*

23 (B) *The table of sections for chapter 43 is*
24 *amended by striking the item relating to section*
25 *4978B.*

1 (6) *Subsection (e) of section 6047 is amended by*
2 *striking paragraphs (1), (2), and (3) and inserting*
3 *the following new paragraphs:*

4 “(1) *any employer maintaining, or the plan ad-*
5 *ministrator (within the meaning of section 414(g)) of,*
6 *an employee stock ownership plan which holds stock*
7 *with respect to which section 404(k) applies to divi-*
8 *dends paid on such stock, or*

9 “(2) *both such employer or plan administrator,*”.

10 (7) *Subsection (f) of section 7872 is amended by*
11 *striking paragraph (12).*

12 (c) *EFFECTIVE DATE.—*

13 (1) *IN GENERAL.—The amendments made by*
14 *this section shall apply to loans made after October*
15 *13, 1995.*

16 (2) *REFINANCINGS.—The amendments made by*
17 *this section shall not apply to loans made after Octo-*
18 *ber 13, 1995, to refinance securities acquisition loans*
19 *(determined without regard to section 133(b)(1)(B) of*
20 *the Internal Revenue Code of 1986, as in effect on the*
21 *day before the date of the enactment of this Act) made*
22 *on or before such date or to refinance loans described*
23 *in this paragraph if—*

1 (A) the refinancing loans meet the require-
2 ments of section 133 of such Code (as so in ef-
3 fect),

4 (B) immediately after the refinancing the
5 principal amount of the loan resulting from the
6 refinancing does not exceed the principal amount
7 of the refinanced loan (immediately before the re-
8 financing), and

9 (C) the term of such refinancing loan does
10 not extend beyond the last day of the term of the
11 original securities acquisition loan.

12 For purposes of this paragraph, the term “securities
13 acquisition loan” includes a loan from a corporation
14 to an employee stock ownership plan described in sec-
15 tion 133(b)(3) of such Code (as so in effect).

16 **CHAPTER 2—LEGAL REFORMS**

17 **SEC. 11311. REPEAL OF EXCLUSION FOR PUNITIVE DAM-**

18 **AGES AND FOR DAMAGES NOT ATTRIBUTABLE**

19 **TO PHYSICAL INJURIES OR SICKNESS.**

20 (a) *IN GENERAL.*—Paragraph (2) of section 104(a)
21 (relating to compensation for injuries or sickness) is amend-
22 ed to read as follows:

23 “(2) the amount of any damages (other than pu-
24 nitive damages) received (whether by suit or agree-
25 ment and whether as lump sums or as periodic pay-

1 *ments) on account of personal physical injuries or*
 2 *physical sickness;”.*

3 *(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT*
 4 *PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section*
 5 *104(a) is amended by striking the last sentence and insert-*
 6 *ing the following new sentence: “For purposes of paragraph*
 7 *(2), emotional distress shall not be treated as a physical*
 8 *injury or physical sickness. The preceding sentence shall not*
 9 *apply to an amount of damages not in excess of the amount*
 10 *paid for medical care (described in subparagraph (A) or*
 11 *(B) of section 213(d)(1)) attributable to emotional dis-*
 12 *tress.”.*

13 *(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNI-*
 14 *TIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH*
 15 *ACTIONS.—Section 104 is amended by redesignating sub-*
 16 *section (c) as subsection (d) and by inserting after sub-*
 17 *section (b) the following new subsection:*

18 *“(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO*
 19 *APPLY IN CERTAIN CASES.—The restriction on the applica-*
 20 *tion of subsection (a)(2) to punitive damages shall not*
 21 *apply to punitive damages which—*

22 *“(1) are awarded in a civil action—*

23 *“(A) which is a wrongful death action, and*

24 *“(B) with respect to which applicable State*

25 *law (as in effect on February 1, 1996, and with-*

1 *out regard to any modification after such date)*
2 *provides, or has been construed to provide by a*
3 *court of competent jurisdiction pursuant to a de-*
4 *cision issued on or before February 1, 1996, that*
5 *only punitive damages may be awarded in such*
6 *an action, and*

7 “(2) *would have been excludable from gross in-*
8 *come under subsection (a)(2) as in effect for amounts*
9 *received on December 31, 1995.*

10 *This subsection shall cease to apply to any civil action filed*
11 *on or after the first date on which the applicable State law*
12 *ceases to provide (or is no longer construed to provide) the*
13 *treatment described in paragraph (2).”*

14 *(d) EFFECTIVE DATE.—*

15 *(1) IN GENERAL.—Except as provided in para-*
16 *graph (2), the amendments made by this section shall*
17 *apply to amounts received after December 31, 1995,*
18 *in taxable years ending after such date.*

19 *(2) EXCEPTION.—The amendments made by this*
20 *section shall not apply to any amount received under*
21 *a written binding agreement, court decree, or medi-*
22 *ation award in effect on (or issued on or before) Sep-*
23 *tember 13, 1995.*

1 **SEC. 11312. REPORTING OF CERTAIN PAYMENTS MADE TO**
2 **ATTORNEYS.**

3 (a) *IN GENERAL.*—Section 6045 (relating to returns
4 of brokers) is amended by adding at the end the following
5 new subsection:

6 “(f) *RETURN REQUIRED IN THE CASE OF PAYMENTS*
7 *TO ATTORNEYS.*—

8 “(1) *IN GENERAL.*—Any person engaged in a
9 trade or business and making a payment (in the
10 course of such trade or business) to which this sub-
11 section applies shall file a return under subsection (a)
12 and a statement under subsection (b) with respect to
13 such payment.

14 “(2) *APPLICATION OF SUBSECTION.*—

15 “(A) *IN GENERAL.*—This subsection shall
16 apply to any payment to an attorney in connec-
17 tion with legal services (whether or not such serv-
18 ices are performed for the payor).

19 “(B) *EXCEPTION.*—This subsection shall not
20 apply to the portion of any payment which is re-
21 quired to be reported under section 6041(a) (or
22 would be so required but for the dollar limitation
23 contained therein) or section 6051.”.

24 (b) *REPORTING OF ATTORNEYS’ FEES PAYABLE TO*
25 *CORPORATIONS.*—The regulations providing an exception
26 under section 6041 of the Internal Revenue Code of 1986

1 *for payments made to corporations shall not apply to pay-*
2 *ments of attorneys' fees.*

3 (c) *EFFECTIVE DATE.*—*The amendment made by this*
4 *section shall apply to payments made after December 31,*
5 *1996.*

6 **CHAPTER 3—REFORMS RELATING TO**
7 **NONRECOGNITION PROVISIONS**

8 **SEC. 11321. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE**
9 **OF PRINCIPAL RESIDENCE WHICH IS ATTRIB-**
10 **UTABLE TO DEPRECIATION DEDUCTIONS.**

11 (a) *IN GENERAL.*—*Subsection (d) of section 1034 (re-*
12 *lating to limitations) is amended by adding at the end the*
13 *following new paragraph:*

14 “(3) *RECOGNITION OF GAIN ATTRIBUTABLE TO*
15 *DEPRECIATION.*—*Subsection (a) shall not apply to so*
16 *much of the gain from the sale of any residence as*
17 *does not exceed the portion of the depreciation adjust-*
18 *ments (as defined in section 1250(b)(3)) attributable*
19 *to periods after December 31, 1995, in respect of such*
20 *residence.”.*

21 (b) *COMPARABLE TREATMENT UNDER 1-TIME EXCLU-*
22 *SION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.*—*Sub-*
23 *section (d) of section 121 is amended by adding at the end*
24 *the following new paragraph:*

1 “(10) *RECOGNITION OF GAIN ATTRIBUTABLE TO*
2 *DEPRECIATION.*—

3 “(A) *IN GENERAL.*—*Subsection (a) shall not*
4 *apply to so much of the gain from the sale of*
5 *any property as does not exceed the portion of*
6 *the depreciation adjustments (as defined in sec-*
7 *tion 1250(b)(3)) attributable to periods after De-*
8 *cember 31, 1995, in respect of such property.*

9 “(B) *COORDINATION WITH PARAGRAPH*
10 *(5).*—*If this section does not apply to gain at-*
11 *tributable to a portion of a residence by reason*
12 *of paragraph (5), subparagraph (A) shall not*
13 *apply to depreciation adjustments attributable to*
14 *such portion.”.*

15 (c) *EFFECTIVE DATE.*—*The amendments made by this*
16 *section shall apply to taxable years ending after December*
17 *31, 1995.*

18 ***SEC. 11322. NONRECOGNITION OF GAIN ON SALE OF PRIN-***
19 ***CIPAL RESIDENCE BY NONCITIZENS LIMITED***
20 ***TO NEW RESIDENCES LOCATED IN THE UNIT-***
21 ***ED STATES.***

22 (a) *IN GENERAL.*—*Subsection (d) of section 1034 (re-*
23 *lating to limitations) (as amended by section 11321) is*
24 *amended by adding at the end the following new paragraph:*

1 “(4) *NEW RESIDENCE MUST BE LOCATED IN*
2 *UNITED STATES IN CERTAIN CASES.*—

3 “(A) *IN GENERAL.*—*In the case of a sale of*
4 *an old residence by a taxpayer—*

5 “(i) *who is not a citizen of the United*
6 *States at the time of sale, and*

7 “(ii) *who is not a citizen or resident of*
8 *the United States on the date which is 2*
9 *years after the date of the sale of such old*
10 *residence,*

11 *subsection (a) shall apply only if the new resi-*
12 *dence is located in the United States or a posses-*
13 *sion of the United States.*

14 “(B) *PROPERTY HELD JOINTLY BY HUS-*
15 *BAND AND WIFE.*—*Subparagraph (A) shall not*
16 *apply if—*

17 “(i) *the old residence is held by a hus-*
18 *band and wife as joint tenants, tenants by*
19 *the entirety, or community property,*

20 “(ii) *such husband and wife make a*
21 *joint return for the taxable year of the sale*
22 *or exchange, and*

23 “(iii) *one spouse is a citizen of the*
24 *United States at the time of sale.”.*

25 (b) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*The amendment made by this*
 2 *section shall apply to sales of old residences after De-*
 3 *cember 31, 1995.*

4 (2) *TREATMENT OF PURCHASES OF NEW RESI-*
 5 *DENCES.*—*The amendment made by this section shall*
 6 *not apply to new residences—*

7 (A) *purchased before September 13, 1995, or*

8 (B) *purchased on or after such date pursu-*
 9 *ant to a binding contract in effect on such date*
 10 *and at all times thereafter before such purchase.*

11 (3) *CERTAIN RULES TO APPLY.*—*For purposes of*
 12 *this subsection, the rules of paragraphs (1), (2), and*
 13 *(3) of section 1034(c) of the Internal Revenue Code of*
 14 *1986 shall apply.*

15 **CHAPTER 4—EXCISE TAX AND TAX-**
 16 **EXEMPT BOND PROVISIONS**

17 **SEC. 11331. REPEAL OF DIESEL FUEL TAX REBATE TO PUR-**
 18 **CHASERS OF DIESEL-POWERED AUTO-**
 19 **MOBILES AND LIGHT TRUCKS.**

20 (a) *IN GENERAL.*—*Section 6427 (relating to fuels not*
 21 *used for taxable purposes) is amended by striking subsection*
 22 *(g).*

23 (b) *CONFORMING AMENDMENTS.*—

24 (1) *Paragraph (3) of section 34(a) is amended to*
 25 *read as follows:*

1 “(3) under section 6427 with respect to fuels
2 used for nontaxable purposes or resold during the tax-
3 able year (determined without regard to section
4 6427(k)).”.

5 (2) Paragraphs (1) and (2)(A) of section 6427(i)
6 are each amended—

7 (A) by striking “(g),” and

8 (B) by striking “(or a qualified diesel pow-
9 ered highway vehicle purchased)” each place it
10 appears.

11 (c) *EFFECTIVE DATE.*—The amendments made by this
12 section shall apply to vehicles purchased after December 31,
13 1995.

14 **SEC. 11332. MODIFICATIONS TO EXCISE TAX ON OZONE-DE-**
15 **PLETING CHEMICALS.**

16 (a) *IN GENERAL.*—Section 4682(d)(1) (relating to re-
17 cycling) is amended by inserting “, or on any recycled
18 halon imported from any country which is a signatory to
19 the Montreal Protocol on Substances that Deplete the Ozone
20 Layer” before the period at the end.

21 (b) *CERTIFICATION SYSTEM.*—The Secretary of the
22 Treasury, after consultation with the Administrator of the
23 Environmental Protection Agency, shall develop a certifi-
24 cation system to ensure compliance with the recycling re-
25 quirement for imported halon under section 4682(d)(1) of

1 *the Internal Revenue Code of 1986, as amended by sub-*
2 *section (a).*

3 (c) *EFFECTIVE DATE.*—*The amendment made by sub-*
4 *section (a) shall take effect on the date of the enactment*
5 *of this Act.*

6 **SEC. 11333. ELECTION TO AVOID TAX-EXEMPT BOND PEN-**
7 **ALTIES FOR LOCAL FURNISHERS OF ELEC-**
8 **TRICITY AND GAS.**

9 *Section 142(f) (relating to local furnishing of electric*
10 *energy or gas) is amended by adding at the end the follow-*
11 *ing new paragraphs:*

12 “(3) *ELECTION TO AVOID PENALTIES FOR CER-*
13 *TAIN FURNISHERS.*—

14 “(A) *IN GENERAL.*—*If—*

15 “(i) *a person engaged in the local fur-*
16 *nishing of electric energy or gas, directly or*
17 *indirectly financed facilities for such fur-*
18 *nishing in whole or in part with exempt fa-*
19 *cility bonds described in subsection (a)(8)*
20 *issued before the date of the enactment of*
21 *this paragraph,*

22 “(ii) *such bonds would (but for this*
23 *paragraph) cease to be tax-exempt by reason*
24 *of such person failing to meet the local fur-*
25 *nishing requirement of such section as a re-*

1 *sult of a service area expansion by such per-*
2 *son, and*

3 *“(iii) an election described in subpara-*
4 *graph (B) is made by such person with re-*
5 *spect to all such facilities of the person,*

6 *then such bonds shall not cease to be tax-exempt*
7 *by reason of such expansion (and section*
8 *150(b)(4) shall not apply to interest on such*
9 *bonds).*

10 *“(B) ELECTION.—An election is described*
11 *in this subparagraph if it is an election made in*
12 *such manner as the Secretary prescribes, and*
13 *such person agrees that—*

14 *“(i) no bond exempt from tax under*
15 *section 103 and described in subsection*
16 *(a)(8) may be issued on or after the date of*
17 *the enactment of this paragraph with re-*
18 *spect to the facilities for the local furnishing*
19 *of electric energy or gas, or both of such per-*
20 *son, other than such a bond issued to refund*
21 *another bond if the amount of such bond*
22 *does not exceed the outstanding amount of*
23 *the refunded bond and the maturity date of*
24 *the refunding bond is not later than the av-*
25 *erage maturity date of the refunded bonds*

1 to be refunded by the issue of which the re-
2 funding bond is a part,

3 “(ii) the expansion of the service
4 area—

5 “(I) is not financed with the pro-
6 ceeds of any exempt facility bond de-
7 scribed in subsection (a)(8), and

8 “(II) is not treated as a
9 nonqualifying use under the rules of
10 paragraph (2), and

11 “(iii) all outstanding bonds used to fi-
12 nance the facilities for such person are re-
13 deemed not later than 6 months after the
14 later of—

15 “(I) the earliest date on which
16 such bonds may be redeemed, or

17 “(II) the date of the election.

18 “(C) *RELATED PERSONS.*—For purposes of
19 this paragraph, the term ‘person’ includes a
20 group of related persons (within the meaning of
21 section 144(a)(3)) which includes such person.

22 “(4) *APPLICATION OF SECTION.*—For purposes of
23 this section, no person may qualify on or after the
24 date of the enactment of this paragraph for tax-ex-
25 empt bond financing for the local furnishing of elec-

1 provide written notice of such event to the Secretary
2 in accordance with paragraph (2).

3 “(2) CONTENTS OF NOTICE.—The notice required
4 by paragraph (1) shall contain such information as
5 the Secretary may prescribe, including—

6 “(A) the amount of money or other property
7 (if any) transferred to the trust in connection
8 with the reportable event, and

9 “(B) the identity of the trust and of each
10 trustee and beneficiary (or class of beneficiaries)
11 of the trust.

12 “(3) REPORTABLE EVENT.—For purposes of this
13 subsection—

14 “(A) IN GENERAL.—The term ‘reportable
15 event’ means—

16 “(i) the creation of any foreign trust
17 by a United States person,

18 “(ii) the transfer of any money or
19 property (directly or indirectly) to a foreign
20 trust by a United States person, including
21 a transfer by reason of death, and

22 “(iii) the death of a citizen or resident
23 of the United States if—

24 “(I) the decedent was treated as
25 the owner of any portion of a foreign

1 *trust under the rules of subpart E of*
2 *part I of subchapter J of chapter 1, or*

3 “*(II) any portion of a foreign*
4 *trust was included in the gross estate*
5 *of the decedent.*”

6 “(B) *EXCEPTIONS.*—

7 “*(i) FAIR MARKET VALUE SALES.*—
8 *Subparagraph (A)(i) shall not apply to*
9 *any transfer of property to a trust in ex-*
10 *change for consideration of at least the fair*
11 *market value of the transferred property.*
12 *For purposes of the preceding sentence, con-*
13 *sideration other than cash shall be taken*
14 *into account at its fair market value and*
15 *the rules of section 679(a)(3) shall apply.*”

16 “*(ii) DEFERRED COMPENSATION AND*
17 *CHARITABLE TRUSTS.*—*Subparagraph (A)*
18 *shall not apply with respect to a trust*
19 *which is—*

20 “*(I) described in section 402(b),*
21 “*404(a)(4), or 404A, or*

22 “*(II) determined by the Secretary*
23 “*to be described in section 501(c)(3).*”

24 “(4) *RESPONSIBLE PARTY.*—*For purposes of this*
25 “*subsection, the term ‘responsible party’ means—*

1 “(A) *the grantor in the case of the creation*
2 *of an inter vivos trust,*

3 “(B) *the transferor in the case of a report-*
4 *able event described in paragraph (3)(A)(ii)*
5 *other than a transfer by reason of death, and*

6 “(C) *the executor of the decedent’s estate in*
7 *any other case.*

8 “(b) *UNITED STATES GRANTOR OF FOREIGN TRUST.—*

9 “(1) *IN GENERAL.—If, at any time during any*
10 *taxable year of a United States person, such person*
11 *is treated as the owner of any portion of a foreign*
12 *trust under the rules of subpart E of part I of sub-*
13 *chapter J of chapter 1, such person shall be respon-*
14 *sible to ensure that—*

15 “(A) *such trust makes a return for such*
16 *year which sets forth a full and complete ac-*
17 *counting of all trust activities and operations for*
18 *the year, the name of the United States agent for*
19 *such trust, and such other information as the*
20 *Secretary may prescribe, and*

21 “(B) *such trust furnishes such information*
22 *as the Secretary may prescribe to each United*
23 *States person (i) who is treated as the owner of*
24 *any portion of such trust or (ii) who receives*

1 *(directly or indirectly) any distribution from the*
2 *trust.*

3 “(2) *TRUSTS NOT HAVING UNITED STATES*
4 *AGENT.—*

5 “(A) *IN GENERAL.—If the rules of this*
6 *paragraph apply to any foreign trust, the deter-*
7 *mination of amounts required to be taken into*
8 *account with respect to such trust by a United*
9 *States person under the rules of subpart E of*
10 *part I of subchapter J of chapter 1 shall be de-*
11 *termined by the Secretary.*

12 “(B) *UNITED STATES AGENT REQUIRED.—*
13 *The rules of this paragraph shall apply to any*
14 *foreign trust to which paragraph (1) applies un-*
15 *less such trust agrees (in such manner, subject to*
16 *such conditions, and at such time as the Sec-*
17 *retary shall prescribe) to authorize a United*
18 *States person to act as such trust’s limited agent*
19 *solely for purposes of applying sections 7602,*
20 *7603, and 7604 with respect to—*

21 “(i) *any request by the Secretary to ex-*
22 *amine records or produce testimony related*
23 *to the proper treatment of amounts required*
24 *to be taken into account under the rules re-*
25 *ferred to in subparagraph (A), or*

1 “(ii) any summons by the Secretary
2 for such records or testimony.

3 *The appearance of persons or production of*
4 *records by reason of a United States person*
5 *being such an agent shall not subject such per-*
6 *sons or records to legal process for any purpose*
7 *other than determining the correct treatment*
8 *under this title of the amounts required to be*
9 *taken into account under the rules referred to in*
10 *subparagraph (A). A foreign trust which ap-*
11 *points an agent described in this subparagraph*
12 *shall not be considered to have an office or a per-*
13 *manent establishment in the United States, or to*
14 *be engaged in a trade or business in the United*
15 *States, solely because of the activities of such*
16 *agent pursuant to this subsection.*

17 “(C) OTHER RULES TO APPLY.—*Rules simi-*
18 *lar to the rules of paragraphs (2) and (4) of sec-*
19 *tion 6038A(e) shall apply for purposes of this*
20 *paragraph.*

21 “(c) REPORTING BY UNITED STATES BENEFICIARIES
22 OF FOREIGN TRUSTS.—

23 “(1) IN GENERAL.—*If any United States person*
24 *receives (directly or indirectly) during any taxable*
25 *year of such person any distribution from a foreign*

1 *trust, such person shall make a return with respect to*
2 *such trust for such year which includes—*

3 *“(A) the name of such trust,*

4 *“(B) the aggregate amount of the distribu-*
5 *tions so received from such trust during such*
6 *taxable year, and*

7 *“(C) such other information as the Sec-*
8 *retary may prescribe.*

9 *“(2) INCLUSION IN INCOME IF RECORDS NOT*
10 *PROVIDED.—*

11 *“(A) IN GENERAL.—If adequate records are*
12 *not provided to the Secretary to determine the*
13 *proper treatment of any distribution from a for-*
14 *foreign trust, such distribution shall be treated as*
15 *an accumulation distribution includible in the*
16 *gross income of the distributee under chapter 1.*
17 *To the extent provided in regulations, the preced-*
18 *ing sentence shall not apply if the foreign trust*
19 *elects to be subject to rules similar to the rules*
20 *of subsection (b)(2)(B).*

21 *“(B) APPLICATION OF ACCUMULATION DIS-*
22 *TRIBUTION RULES.—For purposes of applying*
23 *section 668 in a case to which subparagraph (A)*
24 *applies, the applicable number of years for pur-*

1 poses of section 668(a) shall be $\frac{1}{2}$ of the number
2 of years the trust has been in existence.

3 “(d) *SPECIAL RULES.*—

4 “(1) *DETERMINATION OF WHETHER UNITED*
5 *STATES PERSON RECEIVES DISTRIBUTION.*—For pur-
6 poses of this section, in determining whether a United
7 States person receives a distribution from a foreign
8 trust, the fact that a portion of such trust is treated
9 as owned by another person under the rules of sub-
10 part E of part I of subchapter J of chapter 1 shall
11 be disregarded.

12 “(2) *DOMESTIC TRUSTS WITH FOREIGN ACTIVI-*
13 *TIES.*—To the extent provided in regulations, a trust
14 which is a United States person shall be treated as
15 a foreign trust for purposes of this section and section
16 6677 if such trust has substantial activities, or holds
17 substantial property, outside the United States.

18 “(3) *TIME AND MANNER OF FILING INFORMA-*
19 *TION.*—Any notice or return required under this sec-
20 tion shall be made at such time and in such manner
21 as the Secretary shall prescribe.

22 “(4) *MODIFICATION OF RETURN REQUIRE-*
23 *MENTS.*—The Secretary is authorized to suspend or
24 modify any requirement of this section if the Sec-
25 retary determines that the United States has no sig-

1 *under this subsection with respect to any failure exceed the*
2 *gross reportable amount.*

3 “(b) *SPECIAL RULES FOR RETURNS UNDER SECTION*
4 *6048(b).*—*In the case of a return required under section*
5 *6048(b)—*

6 “(1) *the United States person referred to in such*
7 *section shall be liable for the penalty imposed by sub-*
8 *section (a), and*

9 “(2) *subsection (a) shall be applied by substitut-*
10 *ing ‘5 percent’ for ‘35 percent’.*

11 “(c) *GROSS REPORTABLE AMOUNT.*—*For purposes of*
12 *subsection (a), the term ‘gross reportable amount’ means—*

13 “(1) *the gross value of the property involved in*
14 *the event (determined as of the date of the event) in*
15 *the case of a failure relating to section 6048(a),*

16 “(2) *the gross value of the portion of the trust’s*
17 *assets at the close of the year treated as owned by the*
18 *United States person in the case of a failure relating*
19 *to section 6048(b)(1), and*

20 “(3) *the gross amount of the distributions in the*
21 *case of a failure relating to section 6048(c).*

22 “(d) *REASONABLE CAUSE EXCEPTION.*—*No penalty*
23 *shall be imposed by this section on any failure which is*
24 *shown to be due to reasonable cause and not due to willful*
25 *neglect. The fact that a foreign jurisdiction would impose*

1 *a civil or criminal penalty on the taxpayer (or any other*
2 *person) for disclosing the required information is not rea-*
3 *sonable cause.*

4 “(e) *DEFICIENCY PROCEDURES NOT TO APPLY.—Sub-*
5 *chapter B of chapter 63 (relating to deficiency procedures*
6 *for income, estate, gift, and certain excise taxes) shall not*
7 *apply in respect of the assessment or collection of any pen-*
8 *alty imposed by subsection (a).”.*

9 (c) *CONFORMING AMENDMENTS.—*

10 (1) *Paragraph (2) of section 6724(d), as amend-*
11 *ed by sections 11004 and 11045, is amended by strik-*
12 *ing “or” at the end of subparagraph (U), by striking*
13 *the period at the end of subparagraph (V) and insert-*
14 *ing “, or”, and by inserting after subparagraph (V)*
15 *the following new subparagraph:*

16 “(W) *section 6048(b)(1)(B) (relating to for-*
17 *ign trust reporting requirements).”.*

18 (2) *The table of sections for subpart B of part*
19 *III of subchapter A of chapter 61 is amended by strik-*
20 *ing the item relating to section 6048 and inserting*
21 *the following new item:*

 “*Sec. 6048. Information with respect to certain foreign trusts.*”.

22 (3) *The table of sections for part I of subchapter*
23 *B of chapter 68 is amended by striking the item relat-*

1 *ing to section 6677 and inserting the following new*
2 *item:*

“Sec. 6677. Failure to file information with respect to certain foreign trusts.”.

3 *(d) EFFECTIVE DATES.—*

4 *(1) REPORTABLE EVENTS.—To the extent related*
5 *to subsection (a) of section 6048 of the Internal Reve-*
6 *nue Code of 1986, as amended by this section, the*
7 *amendments made by this section shall apply to re-*
8 *portable events (as defined in such section 6048) oc-*
9 *curring after the date of the enactment of this Act.*

10 *(2) GRANTOR TRUST REPORTING.—To the extent*
11 *related to subsection (b) of such section 6048, the*
12 *amendments made by this section shall apply to tax-*
13 *able years of United States persons beginning after*
14 *the date of the enactment of this Act.*

15 *(3) REPORTING BY UNITED STATES BENE-*
16 *FICIARIES.—To the extent related to subsection (c) of*
17 *such section 6048, the amendments made by this sec-*
18 *tion shall apply to distributions received after the*
19 *date of the enactment of this Act.*

20 **SEC. 11342. MODIFICATIONS OF RULES RELATING TO FOR-**
21 **EIGN TRUSTS HAVING ONE OR MORE UNITED**
22 **STATES BENEFICIARIES.**

23 *(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—*

1 (1) Paragraph (2) of section 679(a) is amended
2 by striking subparagraph (B) and inserting the fol-
3 lowing:

4 “(B) TRANSFERS AT FAIR MARKET
5 VALUE.—To any transfer of property to a trust
6 in exchange for consideration of at least the fair
7 market value of the transferred property. For
8 purposes of the preceding sentence, consideration
9 other than cash shall be taken into account at its
10 fair market value.”.

11 (2) Subsection (a) of section 679 (relating to for-
12 eign trusts having one or more United States bene-
13 ficiaries) is amended by adding at the end the follow-
14 ing new paragraph:

15 “(3) CERTAIN OBLIGATIONS NOT TAKEN INTO AC-
16 COUNT UNDER FAIR MARKET VALUE EXCEPTION.—

17 “(A) IN GENERAL.—In determining whether
18 paragraph (2)(B) applies to any transfer by a
19 person described in clause (ii) or (iii) of sub-
20 paragraph (C), there shall not be taken into ac-
21 count—

22 “(i) except as provided in regulations,
23 any obligation of a person described in sub-
24 paragraph (C), and

1 “(ii) to the extent provided in regula-
2 tions, any obligation which is guaranteed
3 by a person described in subparagraph (C).

4 “(B) *TREATMENT OF PRINCIPAL PAYMENTS*
5 *ON OBLIGATION.*—Principal payments by the
6 trust on any obligation referred to in subpara-
7 graph (A) shall be taken into account on and
8 after the date of the payment in determining the
9 portion of the trust attributable to the property
10 transferred.

11 “(C) *PERSONS DESCRIBED.*—The persons
12 described in this subparagraph are—

13 “(i) the trust,

14 “(ii) any grantor or beneficiary of the
15 trust, and

16 “(iii) any person who is related (with-
17 in the meaning of section 643(i)(2)(B)) to
18 any grantor or beneficiary of the trust.”.

19 (b) *EXEMPTION OF TRANSFERS TO CHARITABLE*
20 *TRUSTS.*—Subsection (a) of section 679 is amended by
21 striking “section 404(a)(4) or 404A” and inserting “section
22 6048(a)(3)(B)(ii)”.

23 (c) *OTHER MODIFICATIONS.*—Subsection (a) of section
24 679 is amended by adding at the end the following new
25 paragraphs:

1 “(4) *SPECIAL RULES APPLICABLE TO FOREIGN*
2 *GRANTOR WHO LATER BECOMES A UNITED STATES*
3 *PERSON.—*

4 “(A) *IN GENERAL.—If a nonresident alien*
5 *individual has a residency starting date within*
6 *5 years after directly or indirectly transferring*
7 *property to a foreign trust, this section and sec-*
8 *tion 6048 shall be applied as if such individual*
9 *transferred to such trust on the residency start-*
10 *ing date an amount equal to the portion of such*
11 *trust attributable to the property transferred by*
12 *such individual to such trust in such transfer.*

13 “(B) *TREATMENT OF UNDISTRIBUTED IN-*
14 *COME.—For purposes of this section, undistrib-*
15 *uted net income for periods before such individ-*
16 *ual’s residency starting date shall be taken into*
17 *account in determining the portion of the trust*
18 *which is attributable to property transferred by*
19 *such individual to such trust but shall not other-*
20 *wise be taken into account.*

21 “(C) *RESIDENCY STARTING DATE.—For*
22 *purposes of this paragraph, an individual’s resi-*
23 *dency starting date is the residency starting date*
24 *determined under section 7701(b)(2)(A).*

25 “(5) *OUTBOUND TRUST MIGRATIONS.—If—*

1 “(A) *an individual who is a citizen or resi-*
2 *dent of the United States transferred property to*
3 *a trust which was not a foreign trust, and*

4 “(B) *such trust becomes a foreign trust*
5 *while such individual is alive,*

6 *then this section and section 6048 shall be applied as*
7 *if such individual transferred to such trust on the*
8 *date such trust becomes a foreign trust an amount*
9 *equal to the portion of such trust attributable to the*
10 *property previously transferred by such individual to*
11 *such trust. A rule similar to the rule of paragraph*
12 *(4)(B) shall apply for purposes of this paragraph.”.*

13 (d) *MODIFICATIONS RELATING TO WHETHER TRUST*
14 *HAS UNITED STATES BENEFICIARIES.*—*Subsection (c) of*
15 *section 679 is amended by adding at the end the following*
16 *new paragraph:*

17 “(3) *CERTAIN UNITED STATES BENEFICIARIES*
18 *DISREGARDED.*—*A beneficiary shall not be treated as*
19 *a United States person in applying this section with*
20 *respect to any transfer of property to foreign trust if*
21 *such beneficiary first became a United States person*
22 *more than 5 years after the date of such transfer.”.*

23 (e) *TECHNICAL AMENDMENT.*—*Subparagraph (A) of*
24 *section 679(c)(2) is amended to read as follows:*

1 *computing the income of a citizen or resident of the*
2 *United States or a domestic corporation.*

3 “(2) *EXCEPTIONS.*—

4 “(A) *CERTAIN REVOCABLE AND IRREV-*
5 *OCABLE TRUSTS.*—*Paragraph (1) shall not*
6 *apply to any trust if—*

7 “(i) *the power to revest absolutely in*
8 *the grantor title to the trust property is ex-*
9 *ercisable solely by the grantor without the*
10 *approval or consent of any other person or*
11 *with the consent of a related or subordinate*
12 *party who is subservient to the grantor, or*

13 “(ii) *the only amounts distributable*
14 *from such trust (whether income or corpus)*
15 *during the lifetime of the grantor are*
16 *amounts distributable to the grantor or the*
17 *spouse of the grantor.*

18 “(B) *COMPENSATORY TRUSTS.*—*Except as*
19 *provided in regulations, paragraph (1) shall not*
20 *apply to any portion of a trust distributions*
21 *from which are taxable as compensation for serv-*
22 *ices rendered.*

23 “(3) *SPECIAL RULES.*—*Except as otherwise pro-*
24 *vided in regulations prescribed by the Secretary—*

1 “(A) a controlled foreign corporation (as de-
2 fined in section 957) shall be treated as a domes-
3 tic corporation for purposes of paragraph (1),
4 and

5 “(B) paragraph (1) shall not apply for pur-
6 poses of applying section 1296.

7 “(4) RECHARACTERIZATION OF PURPORTED
8 GIFTS.—In the case of any transfer directly or indi-
9 rectly from a partnership or foreign corporation
10 which the transferee treats as a gift or bequest, the
11 Secretary may recharacterize such transfer in such
12 circumstances as the Secretary determines to be ap-
13 propriate to prevent the avoidance of the purposes of
14 this subsection.

15 “(5) SPECIAL RULE WHERE GRANTOR IS FOR-
16 EIGN PERSON.—If

17 “(A) but for this subsection, a foreign per-
18 son would be treated as the owner of any portion
19 of a trust, and

20 “(B) such trust has a beneficiary who is a
21 United States person,
22 such beneficiary shall be treated as the grantor of
23 such portion to the extent such beneficiary has made
24 transfers of property by gift (directly or indirectly) to
25 such foreign person. For purposes of the preceding

1 sentence, any gift shall not be taken into account to
2 the extent such gift would be excluded from taxable
3 gifts under section 2503(b).

4 “(6) *REGULATIONS.*—The Secretary shall pre-
5 scribe such regulations as may be necessary or appro-
6 priate to carry out the purposes of this subsection, in-
7 cluding regulations providing that paragraph (1)
8 shall not apply in appropriate cases.”.

9 (2) The last sentence of subsection (c) of section
10 672 of such Code is amended by inserting “subsection
11 (f) and” before “sections 674”.

12 (b) *CREDIT FOR CERTAIN TAXES.*—Paragraph (2) of
13 section 665(d) is amended by adding at the end the follow-
14 ing new sentence: “Under rules or regulations prescribed
15 by the Secretary, in the case of any foreign trust of which
16 the settlor or another person would be treated as owner of
17 any portion of the trust under subpart E but for section
18 672(f), the term ‘taxes imposed on the trust’ includes the
19 allocable amount of any income, war profits, and excess
20 profits taxes imposed by any foreign country or possession
21 of the United States on the settlor or such other person in
22 respect of trust gross income.”.

23 (c) *DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS*
24 *THROUGH NOMINEES.*—

1 (1) *Section 643 is amended by adding at the end*
2 *the following new subsection:*

3 “(h) *DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS*
4 *THROUGH NOMINEES.—For purposes of this part, any*
5 *amount paid to a United States person which is derived*
6 *directly or indirectly from a foreign trust of which the*
7 *payor is not the grantor shall be deemed in the year of pay-*
8 *ment to have been directly paid by the foreign trust to such*
9 *United States person.”.*

10 (2) *Section 665 is amended by striking sub-*
11 *section (c).*

12 (d) *EFFECTIVE DATE.—*

13 (1) *IN GENERAL.—Except as provided by para-*
14 *graph (2), the amendments made by this section shall*
15 *take effect on the date of the enactment of this Act.*

16 (2) *EXCEPTION FOR CERTAIN TRUSTS.—The*
17 *amendments made by this section shall not apply to*
18 *any trust—*

19 (A) *which is treated as owned by the grant-*
20 *or or another person under section 676 or 677*
21 *(other than subsection (a)(3) thereof) of the In-*
22 *ternal Revenue Code of 1986, and*

23 (B) *which is in existence on September 19,*
24 *1995.*

1 *The preceding sentence shall not apply to the portion*
2 *of any such trust attributable to any transfer to such*
3 *trust after September 19, 1995.*

4 *(e) TRANSITIONAL RULE.—If—*

5 *(1) by reason of the amendments made by this*
6 *section, any person other than a United States person*
7 *ceases to be treated as the owner of a portion of a do-*
8 *mestic trust, and*

9 *(2) before January 1, 1997, such trust becomes*
10 *a foreign trust, or the assets of such trust are trans-*
11 *ferred to a foreign trust,*

12 *no tax shall be imposed by section 1491 of the Internal Rev-*
13 *enue Code of 1986 by reason of such trust becoming a for-*
14 *eign trust or the assets of such trust being transferred to*
15 *a foreign trust.*

16 **SEC. 11344. INFORMATION REPORTING REGARDING FOR-**
17 **EIGN GIFTS.**

18 *(a) IN GENERAL.—Subpart A of part III of subchapter*
19 *A of chapter 61 is amended by inserting after section 6039E*
20 *the following new section:*

21 **“SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN**
22 **PERSONS.**

23 **“(a) IN GENERAL.—If the value of the aggregate for-**
24 **eign gifts received by a United States person (other than**
25 **an organization described in section 501(c) and exempt**

1 *from tax under section 501(a)) during any taxable year ex-*
2 *ceeds \$10,000, such United States person shall furnish (at*
3 *such time and in such manner as the Secretary shall pre-*
4 *scribe) such information as the Secretary may prescribe re-*
5 *garding each foreign gift received during such year.*

6 “(b) *FOREIGN GIFT.*—*For purposes of this section, the*
7 *term ‘foreign gift’ means any amount received from a per-*
8 *son other than a United States person which the recipient*
9 *treats as a gift or bequest. Such term shall not include any*
10 *qualified transfer (within the meaning of section*
11 *2503(e)(2)).*

12 “(c) *PENALTY FOR FAILURE TO FILE INFORMATION.*—

13 “(1) *IN GENERAL.*—*If a United States person*
14 *fails to furnish the information required by subsection*
15 *(a) with respect to any foreign gift within the time*
16 *prescribed therefor (including extensions)—*

17 “(A) *the tax consequences of the receipt of*
18 *such gift shall be determined by the Secretary in*
19 *the Secretary’s sole discretion from the Sec-*
20 *retary’s own knowledge or from such information*
21 *as the Secretary may obtain through testimony*
22 *or otherwise, and*

23 “(B) *such United States person shall pay*
24 *(upon notice and demand by the Secretary and*
25 *in the same manner as tax) an amount equal to*

1 5 percent of the amount of such foreign gift for
2 each month for which the failure continues (not
3 to exceed 25 percent of such amount in the aggregate).
4 gate).

5 “(2) *REASONABLE CAUSE EXCEPTION.*—Paragraph (1) shall not apply to any failure to report a
6 foreign gift if the United States person shows that the
7 failure is due to reasonable cause and not due to will-
8 ful neglect.
9 ful neglect.

10 “(d) *COST-OF-LIVING ADJUSTMENT.*—In the case of
11 any taxable year beginning after December 31, 1996, the
12 \$10,000 amount under subsection (a) shall be increased by
13 an amount equal to the product of such amount and the
14 cost-of-living adjustment for such taxable year under section
15 1(f)(3), except that subparagraph (B) thereof shall be ap-
16 plied by substituting ‘1995’ for ‘1992’.

17 “(e) *REGULATIONS.*—The Secretary shall prescribe
18 such regulations as may be necessary or appropriate to
19 carry out the purposes of this section.”.

20 (b) *CLERICAL AMENDMENT.*—The table of sections for
21 such subpart is amended by inserting after the item relating
22 to section 6039E the following new item:

 “Sec. 6039F. Notice of large gifts received from foreign persons.”.

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 section shall apply to amounts received after the date of

1 *the enactment of this Act in taxable years ending after such*
2 *date.*

3 **SEC. 11345. MODIFICATION OF RULES RELATING TO FOR-**
4 **EIGN TRUSTS WHICH ARE NOT GRANTOR**
5 **TRUSTS.**

6 *(a) MODIFICATION OF INTEREST CHARGE ON ACCUMU-*
7 *LATION DISTRIBUTIONS.—Subsection (a) of section 668 (re-*
8 *lating to interest charge on accumulation distributions from*
9 *foreign trusts) is amended to read as follows:*

10 *“(a) GENERAL RULE.—For purposes of the tax deter-*
11 *mined under section 667(a)—*

12 *“(1) INTEREST DETERMINED USING*
13 *UNDERPAYMENT RATES.—The interest charge deter-*
14 *mined under this section with respect to any distribu-*
15 *tion is the amount of interest which would be deter-*
16 *mined on the partial tax computed under section*
17 *667(b) for the period described in paragraph (2)*
18 *using the rates and the method under section 6621*
19 *applicable to underpayments of tax.*

20 *“(2) PERIOD.—For purposes of paragraph (1),*
21 *the period described in this paragraph is the period*
22 *which begins on the date which is the applicable num-*
23 *ber of years before the date of the distribution and*
24 *which ends on the date of the distribution.*

1 “(3) *APPLICABLE NUMBER OF YEARS.*—*For pur-*
2 *poses of paragraph (2)*—

3 “(A) *IN GENERAL.*—*The applicable number*
4 *of years with respect to a distribution is the*
5 *number determined by dividing—*

6 “(i) *the sum of the products described*
7 *in subparagraph (B) with respect to each*
8 *undistributed income year, by*

9 “(ii) *the aggregate undistributed net*
10 *income.*

11 *The quotient determined under the preceding*
12 *sentence shall be rounded under procedures pre-*
13 *scribed by the Secretary.*

14 “(B) *PRODUCT DESCRIBED.*—*For purposes*
15 *of subparagraph (A), the product described in*
16 *this subparagraph with respect to any undistrib-*
17 *uted income year is the product of—*

18 “(i) *the undistributed net income for*
19 *such year, and*

20 “(ii) *the sum of the number of taxable*
21 *years between such year and the taxable*
22 *year of the distribution (counting in each*
23 *case the undistributed income year but not*
24 *counting the taxable year of the distribu-*
25 *tion).*

1 “(4) *UNDISTRIBUTED INCOME YEAR.*—For pur-
2 poses of this subsection, the term ‘undistributed in-
3 come year’ means any prior taxable year of the trust
4 for which there is undistributed net income, other
5 than a taxable year during all of which the bene-
6 ficiary receiving the distribution was not a citizen or
7 resident of the United States.

8 “(5) *DETERMINATION OF UNDISTRIBUTED NET*
9 *INCOME.*—Notwithstanding section 666, for purposes
10 of this subsection, an accumulation distribution from
11 the trust shall be treated as reducing proportionately
12 the undistributed net income for undistributed income
13 years.

14 “(6) *PERIODS BEFORE 1996.*—Interest for the
15 portion of the period described in paragraph (2)
16 which occurs before January 1, 1996, shall be deter-
17 mined—

18 “(A) by using an interest rate of 6 percent,

19 and

20 “(B) without compounding until January
21 1, 1996.”.

22 (b) *ABUSIVE TRANSACTIONS.*—Section 643(a) is
23 amended by inserting after paragraph (6) the following new
24 paragraph:

1 “(7) *ABUSIVE TRANSACTIONS.*—*The Secretary*
2 *shall prescribe such regulations as may be necessary*
3 *or appropriate to carry out the purposes of this part,*
4 *including regulations to prevent avoidance of such*
5 *purposes.”.*

6 *(c) TREATMENT OF LOANS FROM TRUSTS.—*

7 *(1) IN GENERAL.—Section 643 (relating to defi-*
8 *initions applicable to subparts A, B, C, and D) is*
9 *amended by adding at the end the following new sub-*
10 *section:*

11 *“(i) LOANS FROM FOREIGN TRUSTS.—For purposes of*
12 *subparts B, C, and D—*

13 *“(1) GENERAL RULE.—Except as provided in*
14 *regulations, if a foreign trust makes a loan of cash or*
15 *marketable securities directly or indirectly to—*

16 *“(A) any grantor or beneficiary of such*
17 *trust who is a United States person, or*

18 *“(B) any United States person not de-*
19 *scribed in subparagraph (A) who is related to*
20 *such grantor or beneficiary,*

21 *the amount of such loan shall be treated as a distribu-*
22 *tion by such trust to such grantor or beneficiary (as*
23 *the case may be).*

24 *“(2) DEFINITIONS AND SPECIAL RULES.—For*
25 *purposes of this subsection—*

1 “(A) *CASH*.—The term ‘cash’ includes for-
2 *foreign currencies and cash equivalents.*

3 “(B) *RELATED PERSON*.—

4 “(i) *IN GENERAL*.—A person is related
5 *to another person if the relationship between*
6 *such persons would result in a disallowance*
7 *of losses under section 267 or 707(b). In ap-*
8 *plying section 267 for purposes of the pre-*
9 *ceding sentence, section 267(c)(4) shall be*
10 *applied as if the family of an individual*
11 *includes the spouses of the members of the*
12 *family.*

13 “(ii) *ALLOCATION*.—If any person de-
14 *scribed in paragraph (1)(B) is related to*
15 *more than one person, the grantor or bene-*
16 *ficiary to whom the treatment under this*
17 *subsection applies shall be determined under*
18 *regulations prescribed by the Secretary.*

19 “(C) *EXCLUSION OF TAX-EXEMPTS*.—The
20 *term ‘United States person’ does not include any*
21 *entity exempt from tax under this chapter.*

22 “(D) *TRUST NOT TREATED AS SIMPLE*
23 *TRUST*.—Any trust which is treated under this
24 *subsection as making a distribution shall be*
25 *treated as not described in section 651.*

1 “(3) *SUBSEQUENT TRANSACTIONS REGARDING*
2 *LOAN PRINCIPAL.*—*If any loan is taken into account*
3 *under paragraph (1), any subsequent transaction be-*
4 *tween the trust and the original borrower regarding*
5 *the principal of the loan (by way of complete or par-*
6 *tial repayment, satisfaction, cancellation, discharge,*
7 *or otherwise) shall be disregarded for purposes of this*
8 *title.*”.

9 (2) *TECHNICAL AMENDMENT.*—*Paragraph (8) of*
10 *section 7872(f) is amended by inserting “, 643(i),” be-*
11 *fore “or 1274” each place it appears.*

12 (d) *EFFECTIVE DATES.*—

13 (1) *INTEREST CHARGE.*—*The amendment made*
14 *by subsection (a) shall apply to distributions after the*
15 *date of the enactment of this Act.*

16 (2) *ABUSIVE TRANSACTIONS.*—*The amendment*
17 *made by subsection (b) shall take effect on the date of*
18 *the enactment of this Act.*

19 (3) *LOANS FROM TRUSTS.*—*The amendment*
20 *made by subsection (c) shall apply to loans of cash*
21 *or marketable securities after September 19, 1995.*

22 **SEC. 11346. RESIDENCE OF ESTATES AND TRUSTS, ETC.**

23 (a) *TREATMENT AS UNITED STATES PERSON.*—

24 (1) *IN GENERAL.*—*Paragraph (30) of section*
25 *7701(a) is amended by striking subparagraph (D)*

1 *and by inserting after subparagraph (C) the follow-*
2 *ing:*

3 “(D) any estate or trust if—

4 “(i) a court within the United States
5 is able to exercise primary supervision over
6 the administration of the estate or trust,
7 and

8 “(ii) in the case of a trust, one or more
9 United States fiduciaries have the authority
10 to control all substantial decisions of the
11 trust.”.

12 (2) *CONFORMING AMENDMENT.*—*Paragraph (31)*
13 *of section 7701(a) is amended to read as follows:*

14 “(31) *FOREIGN ESTATE OR TRUST.*—*The term*
15 *‘foreign estate’ or ‘foreign trust’ means any estate or*
16 *trust other than an estate or trust described in section*
17 *7701(a)(30)(D).”.*

18 (3) *EFFECTIVE DATE.*—*The amendments made*
19 *by this subsection shall apply—*

20 (A) *to taxable years beginning after Decem-*
21 *ber 31, 1996, or*

22 (B) *at the election of the trustee of a trust,*
23 *to taxable years ending after the date of the en-*
24 *actment of this Act.*

25 *Such an election, once made, shall be irrevocable.*

1 (b) *DOMESTIC TRUSTS WHICH BECOME FOREIGN*
2 *TRUSTS.*—

3 (1) *IN GENERAL.*—Section 1491 (relating to im-
4 position of tax on transfers to avoid income tax) is
5 amended by adding at the end the following new flush
6 sentence:

7 *“If a trust which is not a foreign trust becomes a foreign*
8 *trust, such trust shall be treated for purposes of this section*
9 *as having transferred, immediately before becoming a for-*
10 *foreign trust, all of its assets to a foreign trust.”.*

11 (2) *PENALTY.*—Section 1494 is amended by add-
12 ing at the end the following new subsection:

13 *“(c) PENALTY.—In the case of any failure to file a re-*
14 *turn required by the Secretary with respect to any transfer*
15 *described in section 1491 with respect to a trust, the person*
16 *required to file such return shall be liable for the penalties*
17 *provided in section 6677 in the same manner as if such*
18 *failure were a failure to file a return under section*
19 *6048(a).”.*

20 (3) *EFFECTIVE DATE.*—The amendments made
21 by this subsection shall take effect on the date of the
22 enactment of this Act.

1 **CHAPTER 6—TREATMENT OF INDIVID-**
2 **UALS WHO LOSE UNITED STATES CITI-**
3 **ZENSHIP**

4 **SEC. 11348. REVISION OF INCOME, ESTATE, AND GIFT TAXES**
5 **ON INDIVIDUALS WHO LOSE UNITED STATES**
6 **CITIZENSHIP.**

7 (a) *IN GENERAL.*—Subsection (a) of section 877 is
8 amended to read as follows:

9 “(a) *TREATMENT OF EXPATRIATES.*—

10 “(1) *IN GENERAL.*—Every nonresident alien in-
11 dividual who, within the 10-year period immediately
12 preceding the close of the taxable year, lost United
13 States citizenship, unless such loss did not have for 1
14 of its principal purposes the avoidance of taxes under
15 this subtitle or subtitle B, shall be taxable for such
16 taxable year in the manner provided in subsection (b)
17 if the tax imposed pursuant to such subsection exceeds
18 the tax which, without regard to this section, is im-
19 posed pursuant to section 871.

20 “(2) *CERTAIN INDIVIDUALS TREATED AS HAVING*
21 *TAX AVOIDANCE PURPOSE.*—For purposes of para-
22 graph (1), an individual shall be treated as having a
23 principal purpose to avoid such taxes if—

24 “(A) the average annual net income tax (as
25 defined in section 38(c)(1)) of such individual

1 *for the period of 5 taxable years ending before*
2 *the date of the loss of United States citizenship*
3 *is greater than \$100,000, or*

4 *“(B) the net worth of the individual as of*
5 *such date is \$500,000 or more.*

6 *In the case of the loss of United States citizenship in*
7 *any calendar year after 1996, such \$100,000 and*
8 *\$500,000 amounts shall be increased by an amount*
9 *equal to such dollar amount multiplied by the cost-*
10 *of-living adjustment determined under section 1(f)(3)*
11 *for such calendar year by substituting ‘1994’ for*
12 *‘1992’ in subparagraph (B) thereof. Any increase*
13 *under the preceding sentence shall be rounded to the*
14 *nearest multiple of \$1,000.”*

15 ***(b) EXCEPTIONS.—***

16 ***(1) IN GENERAL.—****Section 877 is amended by*
17 *striking subsection (d), by redesignating subsection (c)*
18 *as subsection (d), and by inserting after subsection (b)*
19 *the following new subsection:*

20 ***“(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN***
21 ***CASES.—***

22 ***“(1) IN GENERAL.—****Subsection (a)(2) shall not*
23 *apply to an individual if—*

1 “(A) such individual is described in a sub-
2 paragraph of paragraph (2) of this subsection,
3 and

4 “(B) within the 1-year period beginning on
5 the date of the loss of United States citizenship,
6 such individual submits a ruling request for the
7 Secretary’s determination as to whether such loss
8 has for 1 of its principal purposes the avoidance
9 of taxes under this subtitle or subtitle B.

10 “(2) INDIVIDUALS DESCRIBED.—

11 “(A) DUAL CITIZENSHIP, ETC.—An individ-
12 ual is described in this subparagraph if—

13 “(i) the individual became at birth a
14 citizen of the United States and a citizen of
15 another country and continues to be a citi-
16 zen of such other country, or

17 “(ii) the individual becomes (not later
18 than the close of a reasonable period after
19 loss of United States citizenship) a citizen
20 of the country in which—

21 “(I) such individual was born,

22 “(II) if such individual is mar-
23 ried, such individual’s spouse was
24 born, or

1 “(III) either of such individual’s
2 parents were born.

3 “(B) LONG-TERM FOREIGN RESIDENTS.—An
4 individual is described in this subparagraph if,
5 for each year in the 10-year period ending on the
6 date of loss of United States citizenship, the in-
7 dividual was present in the United States for 30
8 days or less. The rule of section 7701(b)(3)(D)(ii)
9 shall apply for purposes of this subparagraph.

10 “(C) RENUNCIATION UPON REACHING AGE
11 OF MAJORITY.—An individual is described in
12 this subparagraph if the individual’s loss of
13 United States citizenship occurs before such indi-
14 vidual attains age 18½.

15 “(D) INDIVIDUALS SPECIFIED IN REGULA-
16 TIONS.—An individual is described in this sub-
17 paragraph if the individual is described in a
18 category of individuals prescribed by regulation
19 by the Secretary.”

20 “(2) TECHNICAL AMENDMENT.—Paragraph (1) of
21 section 877(b) of such Code is amended by striking
22 “subsection (c)” and inserting “subsection (d)”.

23 “(c) TREATMENT OF PROPERTY DISPOSED OF IN NON-
24 RECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBU-
25 TIONS FROM CERTAIN CONTROLLED FOREIGN CORPORA-

1 TIONS.—Subsection (d) of section 877, as redesignated by
2 subsection (b), is amended to read as follows:

3 “(d) *SPECIAL RULES FOR SOURCE, ETC.*—For pur-
4 poses of subsection (b)—

5 “(1) *SOURCE RULES.*—The following items of
6 gross income shall be treated as income from sources
7 within the United States:

8 “(A) *SALE OF PROPERTY.*—Gains on the
9 sale or exchange of property (other than stock or
10 debt obligations) located in the United States.

11 “(B) *STOCK OR DEBT OBLIGATIONS.*—Gains
12 on the sale or exchange of stock issued by a do-
13 mestic corporation or debt obligations of United
14 States persons or of the United States, a State
15 or political subdivision thereof, or the District of
16 Columbia.

17 “(C) *INCOME OR GAIN DERIVED FROM CON-*
18 *TROLLED FOREIGN CORPORATION.*—Any income
19 or gain derived from stock in a foreign corpora-
20 tion but only—

21 “(i) if the individual losing United
22 States citizenship owned (within the mean-
23 ing of section 958(a)), or is considered as
24 owning (by applying the ownership rules of
25 section 958(b)), at any time during the 2-

1 *year period ending on the date of the loss*
2 *of United States citizenship, more than 50*
3 *percent of—*

4 “(I) *the total combined voting*
5 *power of all classes of stock entitled to*
6 *vote of such corporation, or*

7 “(II) *the total value of the stock of*
8 *such corporation, and*

9 “(ii) *to the extent such income or gain*
10 *does not exceed the earnings and profits at-*
11 *tributable to such stock which were earned*
12 *or accumulated before the loss of citizenship*
13 *and during periods that the ownership re-*
14 *quirements of clause (i) are met.*

15 “(2) *GAIN RECOGNITION ON CERTAIN EX-*
16 *CHANGES.—*

17 “(A) *IN GENERAL.—In the case of any ex-*
18 *change of property to which this paragraph ap-*
19 *plies, notwithstanding any other provision of*
20 *this title, such property shall be treated as sold*
21 *for its fair market value on the date of such ex-*
22 *change, and any gain shall be recognized for the*
23 *taxable year which includes such date.*

24 “(B) *EXCHANGES TO WHICH PARAGRAPH*
25 *APPLIES.—This paragraph shall apply to any*

1 exchange during the 10-year period described in
2 subsection (a) if—

3 “(i) gain would not (but for this para-
4 graph) be recognized on such exchange in
5 whole or in part for purposes of this sub-
6 title,

7 “(ii) income derived from such prop-
8 erty was from sources within the United
9 States (or, if no income was so derived,
10 would have been from such sources), and

11 “(iii) income derived from the property
12 acquired in the exchange would be from
13 sources outside the United States.

14 “(C) EXCEPTION.—Subparagraph (A) shall
15 not apply if the individual enters into an agree-
16 ment with the Secretary which specifies that any
17 income or gain derived from the property ac-
18 quired in the exchange (or any other property
19 which has a basis determined in whole or part
20 by reference to such property) during such 10-
21 year period shall be treated as from sources with-
22 in the United States. If the property transferred
23 in the exchange is disposed of by the person ac-
24 quiring such property, such agreement shall ter-
25minate and any gain which was not recognized

1 *by reason of such agreement shall be recognized*
2 *as of the date of such disposition.*

3 “(D) *SECRETARY MAY EXTEND PERIOD.—*
4 *To the extent provided in regulations prescribed*
5 *by the Secretary, subparagraph (B) shall be ap-*
6 *plied by substituting the 15-year period begin-*
7 *ning 5 years before the loss of United States citi-*
8 *zenship for the 10-year period referred to therein.*

9 “(E) *SECRETARY MAY REQUIRE RECOGNI-*
10 *TION OF GAIN IN CERTAIN CASES.—To the extent*
11 *provided in regulations prescribed by the Sec-*
12 *retary—*

13 “(i) *the removal of appreciated tan-*
14 *gible personal property from the United*
15 *States, and*

16 “(ii) *any other occurrence which (with-*
17 *out recognition of gain) results in a change*
18 *in the source of the income or gain from*
19 *property from sources within the United*
20 *States to sources outside the United States,*
21 *shall be treated as an exchange to which this*
22 *paragraph applies.*

23 “(3) *SUBSTANTIAL DIMINISHING OF RISKS OF*
24 *OWNERSHIP.—For purposes of determining whether*
25 *this section applies to any gain on the sale or ex-*

1 *change of any property, the running of the 10-year*
2 *period described in subsection (a) shall be suspended*
3 *for any period during which the individual's risk of*
4 *loss with respect to the property is substantially di-*
5 *minished by—*

6 *“(A) the holding of a put with respect to*
7 *such property (or similar property),*

8 *“(B) the holding by another person of a*
9 *right to acquire the property, or*

10 *“(C) a short sale or any other transaction.”*

11 *(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED*
12 *STATES SOURCE INCOME.—*

13 *(1) Subsection (b) of section 877 is amended by*
14 *adding at the end the following new sentence: “The*
15 *tax imposed solely by reason of this section shall be*
16 *reduced (but not below zero) by the amount of any in-*
17 *come, war profits, and excess profits taxes (within the*
18 *meaning of section 903) paid to any foreign country*
19 *or possession of the United States on any income of*
20 *the taxpayer on which tax is imposed solely by reason*
21 *of this section.”*

22 *(2) Subsection (a) of section 877, as amended by*
23 *subsection (a), is amended by inserting “(after any*
24 *reduction in such tax under the last sentence of such*
25 *subsection)” after “such subsection”.*

1 (e) *COMPARABLE ESTATE AND GIFT TAX TREAT-*
2 *MENT.—*

3 (1) *ESTATE TAX.—*

4 (A) *IN GENERAL.—Subsection (a) of section*
5 *2107 is amended to read as follows:*

6 “(a) *TREATMENT OF EXPATRIATES.—*

7 “(1) *RATE OF TAX.—A tax computed in accord-*
8 *ance with the table contained in section 2001 is here-*
9 *by imposed on the transfer of the taxable estate, deter-*
10 *mined as provided in section 2106, of every decedent*
11 *nonresident not a citizen of the United States if,*
12 *within the 10-year period ending with the date of*
13 *death, such decedent lost United States citizenship,*
14 *unless such loss did not have for 1 of its principal*
15 *purposes the avoidance of taxes under this subtitle or*
16 *subtitle A.*

17 “(2) *CERTAIN INDIVIDUALS TREATED AS HAVING*
18 *TAX AVOIDANCE PURPOSE.—*

19 “(A) *IN GENERAL.—For purposes of para-*
20 *graph (1), an individual shall be treated as hav-*
21 *ing a principal purpose to avoid such taxes if*
22 *such individual is so treated under section*
23 *877(a)(2).*

1 “(B) *EXCEPTION.*—Subparagraph (A) shall
2 not apply to a decedent meeting the requirements
3 of section 877(c)(1).”

4 (B) *CREDIT FOR FOREIGN DEATH TAXES.*—
5 Subsection (c) of section 2107 is amended by re-
6 designating paragraph (2) as paragraph (3) and
7 by inserting after paragraph (1) the following
8 new paragraph:

9 “(2) *CREDIT FOR FOREIGN DEATH TAXES.*—

10 “(A) *IN GENERAL.*—The tax imposed by
11 subsection (a) shall be credited with the amount
12 of any estate, inheritance, legacy, or succession
13 taxes actually paid to any foreign country in re-
14 spect of any property which is included in the
15 gross estate solely by reason of subsection (b).

16 “(B) *LIMITATION ON CREDIT.*—The credit
17 allowed by subparagraph (A) for such taxes paid
18 to a foreign country shall not exceed the lesser
19 of—

20 “(i) the amount which bears the same
21 ratio to the amount of such taxes actually
22 paid to such foreign country in respect of
23 property included in the gross estate as the
24 value of the property included in the gross
25 estate solely by reason of subsection (b)

1 bears to the value of all property subjected
2 to such taxes by such foreign country, or

3 “(ii) such property’s proportionate
4 share of the excess of—

5 “(I) the tax imposed by subsection
6 (a), over

7 “(II) the tax which would be im-
8 posed by section 2101 but for this sec-
9 tion.

10 “(C) *PROPORTIONATE SHARE.*—For pur-
11 poses of subparagraph (B), a property’s propor-
12 tionate share is the percentage which the value of
13 the property which is included in the gross estate
14 solely by reason of subsection (b) bears to the
15 total value of the gross estate.”

16 (C) *EXPANSION OF INCLUSION IN GROSS ES-*
17 *TATE OF STOCK OF FOREIGN CORPORATIONS.*—
18 Paragraph (2) of section 2107(b) is amended by
19 striking “more than 50 percent of” and all that
20 follows and inserting “more than 50 percent of—

21 “(A) the total combined voting power of all
22 classes of stock entitled to vote of such corpora-
23 tion, or

24 “(B) the total value of the stock of such cor-
25 poration,”.

1 (2) *GIFT TAX.*—

2 (A) *IN GENERAL.*—Paragraph (3) of section
3 2501(a) is amended to read as follows:

4 “(3) *EXCEPTION.*—

5 “(A) *CERTAIN INDIVIDUALS.*—Paragraph
6 (2) shall not apply in the case of a donor who,
7 within the 10-year period ending with the date
8 of transfer, lost United States citizenship, unless
9 such loss did not have for 1 of its principal pur-
10 poses the avoidance of taxes under this subtitle or
11 subtitle A.

12 “(B) *CERTAIN INDIVIDUALS TREATED AS*
13 *HAVING TAX AVOIDANCE PURPOSE.*—For pur-
14 poses of subparagraph (A), an individual shall
15 be treated as having a principal purpose to
16 avoid such taxes if such individual is so treated
17 under section 877(a)(2).

18 “(C) *EXCEPTION FOR CERTAIN INDIVID-*
19 *UALS.*—Subparagraph (B) shall not apply to a
20 decedent meeting the requirements of section
21 877(c)(1).

22 “(D) *CREDIT FOR FOREIGN GIFT TAXES.*—
23 The tax imposed by this section solely by reason
24 of this paragraph shall be credited with the
25 amount of any gift tax actually paid to any for-

1 *foreign country in respect of any gift which is tax-*
2 *able under this section solely by reason of this*
3 *paragraph.”*

4 (f) *COMPARABLE TREATMENT OF LAWFUL PERMA-*
5 *NENT RESIDENTS WHO CEASE TO BE TAXED AS RESI-*
6 *DENTS.—*

7 (1) *IN GENERAL.—Section 877 is amended by re-*
8 *designating subsection (e) as subsection (f) and by in-*
9 *serting after subsection (d) the following new sub-*
10 *section:*

11 “(e) *COMPARABLE TREATMENT OF LAWFUL PERMA-*
12 *NENT RESIDENTS WHO CEASE TO BE TAXED AS RESI-*
13 *DENTS.—*

14 “(1) *IN GENERAL.—Any long-term resident of*
15 *the United States who—*

16 “(A) *ceases to be a lawful permanent resi-*
17 *dent of the United States (within the meaning of*
18 *section 7701(b)(6)), or*

19 “(B) *commences to be treated as a resident*
20 *of a foreign country under the provisions of a*
21 *tax treaty between the United States and the for-*
22 *foreign country and who does not waive the benefits*
23 *of such treaty applicable to residents of the for-*
24 *foreign country,*

1 shall be treated for purposes of this section and sec-
2 tions 2107, 2501, and 6039F in the same manner as
3 if such resident were a citizen of the United States
4 who lost United States citizenship on the date of such
5 cessation or commencement.

6 “(2) *LONG-TERM RESIDENT.*—For purposes of
7 this subsection, the term ‘long-term resident’ means
8 any individual (other than a citizen of the United
9 States) who is a lawful permanent resident of the
10 United States in at least 8 taxable years during the
11 period of 15 taxable years ending with the taxable
12 year during which the event described in subpara-
13 graph (A) or (B) of paragraph (1) occurs. For pur-
14 poses of the preceding sentence, an individual shall
15 not be treated as a lawful permanent resident for any
16 taxable year if such individual is treated as a resi-
17 dent of a foreign country for the taxable year under
18 the provisions of a tax treaty between the United
19 States and the foreign country and does not waive the
20 benefits of such treaty applicable to residents of the
21 foreign country.

22 “(3) *SPECIAL RULES.*—

23 “(A) *EXCEPTIONS NOT TO APPLY.*—Sub-
24 section (c) shall not apply to an individual who
25 is treated as provided in paragraph (1).

1 “(B) *STEP-UP IN BASIS.*—Solely for pur-
2 poses of determining any tax imposed by reason
3 of this subsection, property which was held by
4 the long-term resident on the date the individual
5 first became a resident of the United States shall
6 be treated as having a basis on such date of not
7 less than the fair market value of such property
8 on such date. The preceding sentence shall not
9 apply if the individual elects not to have such
10 sentence apply. Such an election, once made,
11 shall be irrevocable.

12 “(4) *AUTHORITY TO EXEMPT INDIVIDUALS.*—
13 This subsection shall not apply to an individual who
14 is described in a category of individuals prescribed by
15 regulation by the Secretary.

16 “(5) *REGULATIONS.*—The Secretary shall pre-
17 scribe such regulations as may be appropriate to
18 carry out this subsection, including regulations pro-
19 viding for the application of this subsection in cases
20 where an alien individual becomes a resident of the
21 United States during the 10-year period after being
22 treated as provided in paragraph (1).”

23 “(2) *CONFORMING AMENDMENTS.*—

24 (A) Section 2107 is amended by striking
25 subsection (d), by redesignating subsection (e) as

1 subsection (d), and by inserting after subsection
2 (d) (as so redesignated) the following new sub-
3 section:

4 “(e) *CROSS REFERENCE.*—

“**For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).**”

5 (B) Paragraph (3) of section 2501(a) (as
6 amended by subsection (e)) is amended by add-
7 ing at the end the following new subparagraph:

8 “(E) *CROSS REFERENCE.*—

“**For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).**”

9 (g) *EFFECTIVE DATE.*—

10 (1) *IN GENERAL.*—The amendments made by
11 this section shall apply to—

12 (A) individuals losing United States citi-
13 zenship (within the meaning of section 877 of the
14 Internal Revenue Code of 1986) on or after Feb-
15 ruary 6, 1995, and

16 (B) long-term residents of the United States
17 with respect to whom an event described in sub-
18 paragraph (A) or (B) of section 877(e)(1) of such
19 Code occurs on or after February 6, 1995.

20 (2) *SPECIAL RULE.*—

21 (A) *IN GENERAL.*—In the case of an indi-
22 vidual who performed an act of expatriation

1 specified in paragraph (1), (2), (3), or (4) of sec-
2 tion 349(a) of the Immigration and Nationality
3 Act (8 U.S.C. 1481(a)(1)–(4)) before February 6,
4 1995, but who did not, on or before such date,
5 furnish to the United States Department of State
6 a signed statement of voluntary relinquishment
7 of United States nationality confirming the per-
8 formance of such act, the amendments made by
9 this section and section 11349 shall apply to
10 such individual except that—

11 (i) the 10-year period described in sec-
12 tion 877(a) of such Code shall not expire be-
13 fore the end of the 10-year period beginning
14 on the date such statement is so furnished,
15 and

16 (ii) the 1-year period referred to in sec-
17 tion 877(c) of such Code, as amended by
18 this section, shall not expire before the date
19 which is 1 year after the date of the enact-
20 ment of this Act.

21 (B) *EXCEPTION.*—Subparagraph (A) shall
22 not apply if the individual establishes to the sat-
23 isfaction of the Secretary of the Treasury that
24 such loss of United States citizenship occurred
25 before February 6, 1994.

1 **SEC. 11349. INFORMATION ON INDIVIDUALS LOSING UNIT-**
2 **ED STATES CITIZENSHIP.**

3 (a) *IN GENERAL.*—Subpart A of part III of subchapter
4 A of chapter 61, as amended by section 11344, is amended
5 by inserting after section 6039F the following new section:

6 **“SEC. 6039G. INFORMATION ON INDIVIDUALS LOSING UNIT-**
7 **ED STATES CITIZENSHIP.**

8 “(a) *IN GENERAL.*—Notwithstanding any other provi-
9 sion of law, any individual who loses United States citizen-
10 ship (within the meaning of section 877(a)) shall provide
11 a statement which includes the information described in
12 subsection (b). Such statement shall be—

13 “(1) provided not later than the earliest date of
14 any act referred to in subsection (c), and

15 “(2) provided to the person or court referred to
16 in subsection (c) with respect to such act.

17 “(b) *INFORMATION TO BE PROVIDED.*—Information
18 required under subsection (a) shall include—

19 “(1) the taxpayer’s TIN,

20 “(2) the mailing address of such individual’s
21 principal foreign residence,

22 “(3) the foreign country in which such individ-
23 ual is residing,

24 “(4) the foreign country of which such individual
25 is a citizen,

1 “(5) in the case of an individual having a net
2 worth of at least the dollar amount applicable under
3 section 877(a)(2)(B), information detailing the assets
4 and liabilities of such individual, and

5 “(6) such other information as the Secretary
6 may prescribe.

7 “(c) *ACTS DESCRIBED.*—For purposes of this section,
8 the acts referred to in this subsection are—

9 “(1) the individual’s renunciation of his United
10 States nationality before a diplomatic or consular of-
11 ficer of the United States pursuant to paragraph (5)
12 of section 349(a) of the Immigration and Nationality
13 Act (8 U.S.C. 1481(a)(5)),

14 “(2) the individual’s furnishing to the United
15 States Department of State a signed statement of vol-
16 untary relinquishment of United States nationality
17 confirming the performance of an act of expatriation
18 specified in paragraph (1), (2), (3), or (4) of section
19 349(a) of the Immigration and Nationality Act (8
20 U.S.C. 1481(a)(1)–(4)),

21 “(3) the issuance by the United States Depart-
22 ment of State of a certificate of loss of nationality to
23 the individual, or

1 “(4) the cancellation by a court of the United
2 States of a naturalized citizen’s certificate of natu-
3 ralization.

4 “(d) *PENALTY.*—Any individual failing to provide a
5 statement required under subsection (a) shall be subject to
6 a penalty for each year (of the 10-year period beginning
7 on the date of loss of United States citizenship) during any
8 portion of which such failure continues in an amount equal
9 to the greater of—

10 “(1) 5 percent of the tax required to be paid
11 under section 877 for the taxable year ending during
12 such year, or

13 “(2) \$1,000,
14 unless it is shown that such failure is due to reasonable
15 cause and not to willful neglect.

16 “(e) *INFORMATION TO BE PROVIDED TO SEC-*
17 *RETARY.*—Notwithstanding any other provision of law—

18 “(1) any Federal agency or court which collects
19 (or is required to collect) the statement under sub-
20 section (a) shall provide to the Secretary—

21 “(A) a copy of any such statement, and

22 “(B) the name (and any other identifying
23 information) of any individual refusing to com-
24 ply with the provisions of subsection (a),

1 “(2) *the Secretary of State shall provide to the*
2 *Secretary a copy of each certificate as to the loss of*
3 *American nationality under section 358 of the Immig-*
4 *ration and Nationality Act which is approved by the*
5 *Secretary of State, and*

6 “(3) *the Federal agency primarily responsible for*
7 *administering the immigration laws shall provide to*
8 *the Secretary the name of each lawful permanent resi-*
9 *dent of the United States (within the meaning of sec-*
10 *tion 7701(b)(6)) whose status as such has been re-*
11 *voked or has been administratively or judicially de-*
12 *termined to have been abandoned.*

13 “(f) *REPORTING BY LONG-TERM LAWFUL PERMANENT*
14 *RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—*
15 *In lieu of applying the last sentence of subsection (a), any*
16 *individual who is required to provide a statement under*
17 *this section by reason of section 877(e)(1) shall provide such*
18 *statement with the return of tax imposed by chapter 1 for*
19 *the taxable year during which the event described in such*
20 *section occurs.*

21 “(g) *EXEMPTION.—The Secretary may by regulations*
22 *exempt any class of individuals from the requirements of*
23 *this section if he determines that applying this section to*
24 *such individuals is not necessary to carry out the purposes*
25 *of this section.”*

1 (b) *CLERICAL AMENDMENT.*—The table of sections for
 2 such subpart A is amended by inserting after the item relat-
 3 ing to section 6039F the following new item:

“Sec. 6039G. Information on individuals losing United States citizenship.”

4 (c) *EFFECTIVE DATE.*—The amendments made by this
 5 section shall apply to—

6 (1) *individuals losing United States citizenship*
 7 *(within the meaning of section 877 of the Internal*
 8 *Revenue Code of 1986) on or after February 6, 1995,*
 9 *and*

10 (2) *long-term residents of the United States with*
 11 *respect to whom an event described in subparagraph*
 12 *(A) or (B) of section 877(e)(1) of such Code occurs on*
 13 *or after such date.*

14 *In no event shall any statement required by such amend-*
 15 *ments be due before the 90th day after the date of the enact-*
 16 *ment of this Act.*

17 **CHAPTER 7—FINANCIAL ASSET**

18 **SECURITIZATION INVESTMENTS**

19 **SEC. 11351. FINANCIAL ASSET SECURITIZATION INVEST-**
 20 **MENT TRUSTS.**

21 (a) *IN GENERAL.*—Subchapter M of chapter 1 is
 22 amended by adding at the end the following new part:

1 **“PART V—FINANCIAL ASSET SECURITIZATION**2 **INVESTMENT TRUSTS**

“Sec. 860H. *Taxation of a FASIT; other general rules.*

“Sec. 860I. *Gain recognition on contributions to and distributions from a FASIT and in other cases.*

“Sec. 860J. *Non-FASIT losses not to offset certain FASIT inclusions.*

“Sec. 860K. *Treatment of transfers of high-yield interests to disqualified holders.*

“Sec. 860L. *Definitions and other special rules.*

3 **“SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.**

4 “(a) *TAXATION OF FASIT.*—A FASIT as such shall
5 *not be subject to taxation under this subtitle (and shall not*
6 *be treated as a trust, partnership, corporation, or taxable*
7 *mortgage pool).*

8 “(b) *TAXATION OF HOLDER OF OWNERSHIP INTER-*
9 *EST.*—*In determining the taxable income of the holder of*
10 *the ownership interest in a FASIT—*

11 “(1) *all assets, liabilities, and items of income,*
12 *gain, deduction, loss, and credit of a FASIT shall be*
13 *treated as assets, liabilities, and such items (as the*
14 *case may be) of such holder,*

15 “(2) *the constant yield method (including the*
16 *rules of section 1272(a)(6)) shall be applied under an*
17 *accrual method of accounting in determining all in-*
18 *terest, acquisition discount, original issue discount,*
19 *and market discount and all premium deductions or*
20 *adjustments with respect to all debt instruments of the*
21 *FASIT,*

1 “(3) the amount of the tax imposed by section
2 860L(e) (relating to tax on income from foreclosure
3 property) shall be allowed as a deduction,

4 “(4) there shall not be taken into account any
5 item of income, gain, loss, or deduction allocable to
6 prohibited income, and

7 “(5) interest accrued by the FASIT which is ex-
8 empt from tax imposed by this subtitle shall, when
9 taken into account by such holder, be treated as ordi-
10 nary income.

11 For purposes of this subtitle, securities treated as held by
12 such holder under paragraph (1) shall be treated as held
13 for investment.

14 “(c) *TREATMENT OF REGULAR INTERESTS.*—For pur-
15 poses of this title—

16 “(1) a regular interest in a FASIT, if not other-
17 wise a debt instrument, shall be treated as a debt in-
18 strument,

19 “(2) section 163(e)(5) shall not apply to such an
20 interest, and

21 “(3) amounts includible in gross income with re-
22 spect to such an interest shall be determined under an
23 accrual method of accounting.

1 **“SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO**
2 **AND DISTRIBUTIONS FROM A FASIT AND IN**
3 **OTHER CASES.**

4 “(a) *CONTRIBUTIONS TO FASIT.*—

5 “(1) *IN GENERAL.*—*If property is contributed to*
6 *a FASIT by the holder of the ownership interest in*
7 *such FASIT, gain (if any) shall be recognized to such*
8 *holder in an amount equal to the excess (if any) of*
9 *such property’s value under subsection (e) on the date*
10 *of such contribution over its adjusted basis on such*
11 *date.*

12 “(2) *DEBT INSTRUMENTS ACQUIRED OTHER*
13 *THAN BY CONTRIBUTION BY HOLDER OF OWNERSHIP*
14 *INTEREST.*—*For purposes of this part, any debt in-*
15 *strument which is acquired by a FASIT other than*
16 *in a contribution by the holder of the ownership in-*
17 *terest in the FASIT shall be treated—*

18 “(A) *as having been acquired by such holder*
19 *at its fair market value on the date of its acqui-*
20 *sition by the FASIT, and*

21 “(B) *as having been contributed by such*
22 *holder to the FASIT at its value under sub-*
23 *section (e) on such date.*

24 “(3) *DEFERRAL OF GAIN RECOGNITION.*—*The*
25 *Secretary may prescribe regulations which—*

1 “(A) provide that gain otherwise recognized
2 under paragraph (1) shall not be recognized be-
3 fore the earliest date on which such property
4 supports any regular interest in such FASIT or
5 any indebtedness of the holder of the ownership
6 interest (or of any person related to such holder),
7 and

8 “(B) provide such adjustments to the other
9 provisions of this part to the extent appropriate
10 in the context of the treatment provided under
11 subparagraph (A).

12 “(b) *CERTAIN DISTRIBUTIONS.*—If a FASIT makes a
13 distribution of property with respect to the ownership inter-
14 est in the FASIT, gain (if any) shall be recognized to such
15 FASIT on the distribution in the same manner as if the
16 FASIT had sold such property to the distributee at its value
17 under subsection (e) on the date of such distribution.

18 “(c) *GAIN RECOGNITION ON PROPERTY OUTSIDE*
19 *FASIT WHICH SUPPORTS REGULAR INTERESTS.*—If prop-
20 erty held by the holder of the ownership interest in a FASIT
21 (or by any person related to such holder) supports any regu-
22 lar interest in such FASIT—

23 “(1) gain shall be recognized to such holder in
24 the same manner as if such holder had sold such
25 property at its value under subsection (e) on the ear-

1 *liest date such property supports such an interest,*
2 *and*

3 *“(2) such property shall be treated as held by*
4 *such FASIT for purposes of this part.*

5 *“(d) GAIN RECOGNITION ON RETAINED INTERESTS.—*
6 *If—*

7 *“(1) any interest in a debt instrument is con-*
8 *tributed to a FASIT, and*

9 *“(2) the contributor (or any person related to*
10 *such contributor) retains any interest in such instru-*
11 *ment (including a right to receive excessive servicing*
12 *fees with respect to such instrument),*

13 *then gain shall be recognized to such contributor (or person)*
14 *in the same manner as if the contributor (or person) had*
15 *sold the retained interest at its value under subsection (e)*
16 *on the date of such contribution.*

17 *“(e) VALUATION.—For purposes of this section—*

18 *“(1) IN GENERAL.—The value of any property*
19 *under this subsection shall be—*

20 *“(A) in the case of property other than a*
21 *debt instrument, its fair market value, and*

22 *“(B) in the case of a debt instrument, the*
23 *sum of the present values of the reasonably ex-*
24 *pected payments under such instrument deter-*

1 *mined (in the manner provided by regulations*
2 *prescribed by the Secretary)—*

3 *“(i) as of the date of the event resulting*
4 *in the gain recognition under this section,*
5 *and*

6 *“(ii) by using a discount rate equal to*
7 *120 percent of the applicable Federal rate*
8 *(as defined in section 1274(d)), or such*
9 *other discount rate specified in such regula-*
10 *tions, compounded semiannually.*

11 *“(2) SPECIAL RULE FOR REVOLVING LOAN AC-*
12 *COUNTS.—For purposes of paragraph (1)—*

13 *“(A) each extension of credit (other than the*
14 *accrual of interest) on a revolving loan account*
15 *shall be treated as a separate debt instrument,*
16 *and*

17 *“(B) payments on such extensions of credit*
18 *having substantially the same terms shall be ap-*
19 *plied to such extensions beginning with the earli-*
20 *est such extension.*

21 *“(f) SPECIAL RULES.—*

22 *“(1) NONRECOGNITION RULES NOT TO APPLY.—*
23 *Gain required to be recognized under this section*
24 *shall be recognized notwithstanding any other provi-*
25 *sion of this subtitle.*

1 “(1) the reference in section 55(b)(2) to taxable
2 income shall be treated as a reference to taxable in-
3 come determined without regard to this section,

4 “(2) the alternative minimum taxable income of
5 any holder of the ownership interest or a high-yield
6 interest in a FASIT for any taxable year shall in no
7 event be less than such holder’s taxable income deter-
8 mined solely with respect to such interests, and

9 “(3) any increase in taxable income under this
10 section shall be disregarded for purposes of computing
11 the alternative tax net operating loss deduction.

12 **“SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD IN-**
13 **TERESTS TO DISQUALIFIED HOLDERS.**

14 “(a) *GENERAL RULE.*—If any high-yield interest is
15 held by a disqualified holder, this chapter shall be applied
16 as if the transferor of such interest to such holder had not
17 transferred such interest.

18 “(b) *EXCEPTIONS.*—Rules similar to the rules of para-
19 graphs (4) and (7) of section 860E(e) shall apply to the
20 tax imposed by reason of subsection (a).

21 “(c) *DISQUALIFIED HOLDER.*—For purposes of this
22 section, the term ‘disqualified holder’ means any holder
23 other than an eligible corporation (as defined in section
24 860L(a)(2)).

1 “(d) *TREATMENT OF INTERESTS HELD BY SECURI-*
2 *TIES DEALERS.*—

3 “(1) *IN GENERAL.*—*Subsection (a) shall not*
4 *apply to any high-yield interest held by a disqualified*
5 *holder if such holder is a dealer in securities who ac-*
6 *quired such interest exclusively for sale to customers*
7 *in the ordinary course of business (and not for invest-*
8 *ment).*

9 “(2) *CHANGE IN DEALER STATUS.*—

10 “(A) *IN GENERAL.*—*In the case of a dealer*
11 *in securities which is not an eligible corporation*
12 *(as defined in section 860L(a)(2)), if—*

13 “(i) *such dealer ceases to be a dealer in*
14 *securities, or*

15 “(ii) *such dealer commences holding*
16 *the high-yield interest for investment,*

17 *there is hereby imposed (in addition to other*
18 *taxes) an excise tax equal to the product of the*
19 *highest rate of tax specified in section 11(b)(1)*
20 *and the income of such dealer attributable to*
21 *such interest for periods after the date of such*
22 *cessation or commencement.*

23 “(B) *HOLDING FOR 31 DAYS OR LESS.*—*For*
24 *purposes of subparagraph (A)(ii), a dealer shall*
25 *not be treated as holding an interest for invest-*

1 *ment before the 32d day after the date such deal-*
2 *er acquired such interest unless such interest is*
3 *so held as part of a plan to avoid the purposes*
4 *of this paragraph.*

5 “(C) *ADMINISTRATIVE PROVISIONS.—The*
6 *deficiency procedures of subtitle F shall apply to*
7 *the tax imposed by this paragraph.*

8 “(e) *TREATMENT OF HIGH-YIELD INTERESTS IN PASS-*
9 *THRU ENTITIES.—If a pass-thru entity (as defined in sec-*
10 *tion 860E(e)(6)) issues a debt or equity interest—*

11 *“(1) which is supported by any regular interest*
12 *in a FASIT, and*

13 *“(2) which has an original yield to maturity*
14 *which is greater than each of—*

15 *“(A) the sum determined under clauses (i)*
16 *and (ii) of section 163(i)(1)(B) with respect to*
17 *such debt or equity interest, and*

18 *“(B) the yield to maturity on such regular*
19 *interest,*

20 *there is hereby imposed on the pass-thru entity a tax*
21 *(in addition to other taxes) equal to the product of the*
22 *highest rate of tax specified in section 11(b)(1) and*
23 *the income of the holder of such debt or equity interest*
24 *which is properly attributable to such regular inter-*
25 *est. For purposes of the preceding sentence, the yield*

1 to maturity of any equity interest shall be determined
2 under regulations prescribed by the Secretary.

3 **“SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.**

4 “(a) FASIT.—

5 “(1) IN GENERAL.—For purposes of this title, the
6 terms ‘financial asset securitization investment trust’
7 and ‘FASIT’ mean any entity—

8 “(A) for which an election to be treated as
9 a FASIT applies for the taxable year,

10 “(B) all of the interests in which are regu-
11 lar interests or the ownership interest,

12 “(C) which has only 1 ownership interest
13 and such ownership interest is held directly by
14 an eligible corporation,

15 “(D) as of the close of the 3rd month begin-
16 ning after the day of its formation and at all
17 times thereafter, substantially all of the assets of
18 which (including assets treated as held by the en-
19 tity under section 860I(c)(2)) consist of per-
20 mitted assets, and

21 “(E) which is not described in section
22 851(a).

23 A rule similar to the rule of the last sentence of sec-
24 tion 860D(a) shall apply for purposes of this para-
25 graph.

1 “(2) *ELIGIBLE CORPORATION.*—For purposes of
2 paragraph (1)(C), the term ‘eligible corporation’
3 means any domestic C corporation other than—

4 “(A) a corporation which is exempt from, or
5 is not subject to, tax under this chapter,

6 “(B) an entity described in section 851(a)
7 or 856(a),

8 “(C) a REMIC, and

9 “(D) an organization to which part I of
10 subchapter T applies.

11 “(3) *ELECTION.*—

12 “(A) *IN GENERAL.*—An entity (otherwise
13 meeting the requirements of paragraph (1)) may
14 elect to be treated as a FASIT. Except as pro-
15 vided in paragraph (5), such an election shall
16 apply to the taxable year for which made and all
17 subsequent taxable years unless revoked with the
18 consent of the Secretary.

19 “(B) *ELECTIONS MADE AFTER 1ST TAXABLE*
20 *YEAR OF ENTITY.*—If the election under subpara-
21 graph (A) is made after the first taxable year of
22 the entity, all property held (or treated as held
23 under section 860I(c)(2)) by such entity as of the
24 first day of the first taxable year for which such
25 election is made shall be treated as contributed

1 to such entity on such first day by the holder of
2 the ownership interest in such entity.

3 “(4) *TERMINATION.*—If any entity ceases to be a
4 *FASIT* at any time during the taxable year, such en-
5 tity shall not be treated as a *FASIT* for such taxable
6 year or any succeeding taxable year.

7 “(5) *INADVERTENT TERMINATIONS, ETC.*—Rules
8 similar to the rules of section 860D(b)(2)(B) shall
9 apply to inadvertent failures to qualify or remain
10 qualified as a *FASIT*.

11 “(b) *INTERESTS IN FASIT.*—For purposes of this
12 part—

13 “(1) *REGULAR INTEREST.*—

14 “(A) *IN GENERAL.*—The term ‘regular in-
15 terest’ means any interest which is issued by a
16 *FASIT* with fixed terms and which is designated
17 as a regular interest if—

18 “(i) such interest unconditionally enti-
19 tles the holder to receive a specified prin-
20 cipal amount (or other similar amount),

21 “(ii) except as otherwise provided by
22 the Secretary—

23 “(I) in the case of a *FASIT* which
24 would be treated as a *REMIC* if an
25 election under section 860D(b) had

1 *been made, interest payments (or other*
2 *similar amounts), if any, with respect*
3 *to such interest at or before maturity*
4 *meet the requirements applicable under*
5 *clause (i) or (ii) of section*
6 *860G(a)(1)(B), or*

7 *“(II) in the case of any other*
8 *FASIT, interest payments (or other*
9 *similar amounts), if any, with respect*
10 *to such interest are determined using a*
11 *current rate which is reasonably ex-*
12 *pected to measure contemporaneous*
13 *variations in the cost of newly bor-*
14 *rowed funds in the currency in which*
15 *the regular interest is denominated,*

16 *“(iii) such interest does not have a*
17 *stated maturity (including options to*
18 *renew) greater than 30 years (or such*
19 *longer period as may be permitted by regu-*
20 *lations),*

21 *“(iv) the issue price of such interest*
22 *does not exceed 125 percent of its stated*
23 *principal amount, and*

24 *“(v) the yield to maturity on such in-*
25 *terest is less than the sum determined under*

1 *section 163(i)(1)(B) with respect to such in-*
2 *terest.*

3 *Interest shall not fail to meet the requirements of*
4 *clause (i) merely because the timing (but not the*
5 *amount) of the principal payments (or other*
6 *similar amounts) may be contingent on the ex-*
7 *tent that payments on debt instruments held by*
8 *the FASIT are made in advance of anticipated*
9 *payments and on the amount of income from*
10 *permitted assets.*

11 *“(B) HIGH-YIELD INTERESTS.—*

12 *“(i) IN GENERAL.—The term ‘regular*
13 *interest’ includes any high-yield interest.*

14 *“(ii) HIGH-YIELD INTEREST.—The*
15 *term ‘high-yield interest’ means any interest*
16 *which would be described in subparagraph*
17 *(A) but for failing to meet the requirements*
18 *of one or more of clauses (i), (iv), or (v)*
19 *thereof.*

20 *“(2) OWNERSHIP INTEREST.—The term ‘owner-*
21 *ship interest’ means the interest issued by a FASIT*
22 *which is designated as an ownership interest and*
23 *which is not a regular interest.*

24 *“(c) PERMITTED ASSETS.—For purposes of this*
25 *part—*

1 “(1) *IN GENERAL.*—*The term ‘permitted asset’*
2 *means—*

3 “(A) *cash or cash equivalents,*

4 “(B) *any debt instrument (as defined in*
5 *section 1275(a)(1)) under which interest pay-*
6 *ments (or other similar amounts), if any, at or*
7 *before maturity meet the requirements applicable*
8 *under clause (i) or (ii) of section 860G(a)(1)(B),*

9 “(C) *foreclosure property,*

10 “(D) *any asset—*

11 “(i) *which is an interest rate or foreign*
12 *currency notional principal contract, letter*
13 *of credit, insurance, guarantee against pay-*
14 *ment defaults, or other similar instrument,*
15 *permitted by the Secretary, and*

16 “(ii) *which is a reasonably required to*
17 *guarantee or hedge against the FASIT’s*
18 *risks associated with being the obligor on*
19 *interests issued by the FASIT, and*

20 “(E) *contract rights to acquire debt instru-*
21 *ments described in subparagraph (B) or assets*
22 *described in subparagraph (D).*

23 “(2) *DEBT ISSUED BY HOLDER OF OWNERSHIP*
24 *INTEREST NOT PERMITTED ASSET.*—*The term ‘per-*
25 *mitted asset’ shall not include any debt instrument is-*

1 sued by the holder of the ownership interest in the
2 *FASIT* or by any person related to such holder or
3 any direct or indirect interest in such a debt instru-
4 ment. The preceding sentence shall not apply to cash
5 equivalents and to any other investment specified in
6 regulations prescribed by the Secretary.

7 “(3) *FORECLOSURE PROPERTY*.—The term ‘fore-
8 closure property’ means property—

9 “(A) which would be foreclosure property
10 under section 856(e) (determined without regard
11 to paragraph (5) thereof) if acquired by a real
12 estate investment trust, and

13 “(B) which is acquired in connection with
14 the default or imminent default of a debt instru-
15 ment held by the *FASIT* unless the security in-
16 terest in such property was created for the prin-
17 cipal purpose of permitting the *FASIT* to invest
18 in such property.

19 Solely for purposes of subsection (a)(1), the deter-
20 mination of whether any property is foreclosure prop-
21 erty shall be made without regard to section
22 856(e)(4).

23 “(d) *TAX ON PROHIBITED TRANSACTIONS*.—

24 “(1) *IN GENERAL*.—There is hereby imposed for
25 each taxable year of a *FASIT* a tax equal to 100 per-

1 *cent of the net income derived from prohibited trans-*
2 *actions.*

3 “(2) *PROHIBITED TRANSACTIONS.*—*For purposes*
4 *of this part, the term ‘prohibited transaction’*
5 *means—*

6 “(A) *the receipt of any income derived from*
7 *any asset that is not a permitted asset,*

8 “(B) *except as provided in paragraph (3),*
9 *the disposition of any permitted asset,*

10 “(C) *the receipt of any income derived from*
11 *any loan originated by the FASIT, and*

12 “(D) *the receipt of any income representing*
13 *a fee or other compensation for services (other*
14 *than any fee received as compensation for a*
15 *waiver, amendment, or consent under permitted*
16 *assets (other than foreclosure property) held by*
17 *the FASIT).*

18 “(3) *EXCEPTION FOR INCOME FROM CERTAIN*
19 *DISPOSITIONS.*—

20 “(A) *IN GENERAL.*—*Paragraph (2)(B) shall*
21 *not apply to a disposition which would not be a*
22 *prohibited transaction (as defined in section*
23 *860F(a)(2)) by reason of—*

24 “(i) *clause (ii), (iii), or (iv) of section*
25 *860F(a)(2)(A), or*

1 “(ii) section 860F(a)(5),
2 if the FASIT were treated as a REMIC and debt
3 instruments described in subsection (c)(1)(B)
4 were treated as qualified mortgages.

5 “(B) SUBSTITUTION OF DEBT INSTRU-
6 MENTS; REDUCTION OF OVER-
7 COLLATERALIZATION.—Paragraph (2)(B) shall
8 not apply to—

9 “(i) the substitution of a debt instru-
10 ment described in subsection (c)(1)(B) for
11 another debt instrument which is a per-
12 mitted asset, or

13 “(ii) the distribution of a debt instru-
14 ment contributed by the holder of the owner-
15 ship interest to such holder in order to re-
16 duce over-collateralization of the FASIT,
17 but only if a principal purpose of acquiring the
18 debt instrument which is disposed of was not the
19 recognition of gain (or the reduction of a loss) as
20 a result of an increase in the market value of the
21 debt instrument after its acquisition by the
22 FASIT.

23 “(C) LIQUIDATION OF CLASS OF REGULAR
24 INTERESTS.—Paragraph (2)(B) shall not apply

1 to the complete liquidation of any class of regu-
2 lar interests.

3 “(4) *NET INCOME.*—For purposes of this sub-
4 section, net income shall be determined in accordance
5 with section 860F(a)(3).

6 “(e) *TAX ON INCOME FROM FORECLOSURE PROP-*
7 *ERTY.*—

8 “(1) *IN GENERAL.*—A tax is hereby imposed for
9 each taxable year on the net income from foreclosure
10 property of each FASIT. Such tax shall be computed
11 by multiplying the net income from foreclosure prop-
12 erty by the highest rate of tax specified in section
13 11(b).

14 “(2) *NET INCOME FROM FORECLOSURE PROP-*
15 *ERTY.*—For purposes of this part, the term ‘net in-
16 come from foreclosure property’ means the amount
17 which would be the FASIT’s net income from fore-
18 closure property under section 857(b)(4)(B) if the
19 FASIT were a real estate investment trust.

20 “(f) *COORDINATION WITH WASH SALES RULES.*—
21 Rules similar to the rules of section 860F(d) shall apply
22 to the ownership interest in a FASIT.

23 “(g) *RELATED PERSON.*—For purposes of this part, a
24 person (hereinafter in this subsection referred to as the ‘re-
25 lated person’) is related to any person if—

1 “(1) the related person bears a relationship to
2 such person specified in section 267(b) or section
3 707(b)(1), or

4 “(2) the related person and such person are en-
5 gaged in trades or businesses under common control
6 (within the meaning of subsections (a) and (b) of sec-
7 tion 52).

8 For purposes of paragraph (1), in applying section 267(b)
9 or 707(b)(1), ‘20 percent’ shall be substituted for ‘50 per-
10 cent’.

11 “(h) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this part, including regulations
14 to prevent the abuse of the purposes of this part through
15 transactions which are not primarily related to
16 securitization of debt instruments by a FASIT.”.

17 (b) TECHNICAL AMENDMENTS.—

18 (1) Paragraph (2) of section 26(b) is amended by
19 striking “and” at the end of subparagraph (M), by
20 striking the period at the end of subparagraph (N)
21 and inserting “, and”, and by adding at the end the
22 following new subparagraphs:

23 “(O) section 860K (relating to treatment of
24 transfers of high-yield interests to disqualified
25 holders).”.

1 (2) Paragraph (6) of section 56(g) is amended by
2 striking “or REMIC” and inserting “REMIC, or
3 FASIT”.

4 (3) Clause (ii) of section 382(l)(4)(B) is amended
5 by striking “or a REMIC to which part IV of sub-
6 chapter M applies” and inserting “a REMIC to
7 which part IV of subchapter M applies, or a FASIT
8 to which part V of subchapter M applies”.

9 (4) Paragraph (1) of section 582(c) is amended
10 by inserting “, and any regular or ownership interest
11 in a FASIT,” after “REMIC”.

12 (5) Subparagraph (E) of section 856(c)(6) is
13 amended by adding at the end the following new sen-
14 tence: “References in the preceding provisions of this
15 subparagraph to a REMIC shall be treated as includ-
16 ing a reference to a FASIT.”.

17 (6) Subparagraph (C) of section 1202(e)(4) is
18 amended by striking “or REMIC” and inserting
19 “REMIC, or FASIT”.

20 (7) Clause (xi) of section 7701(a)(19)(C) is
21 amended to read as follows:

22 “(xi) any regular or residual interest
23 in a REMIC, and any regular or ownership
24 interest in a FASIT, but only in the pro-
25 portion which the assets of such REMIC or

1 *FASIT* consist of property described in any
2 of the preceding clauses of this subpara-
3 graph; except that if 95 percent or more of
4 the assets of such REMIC or FASIT are as-
5 sets described in clauses (i) through (x), the
6 entire interest in the REMIC or FASIT
7 shall qualify.”.

8 (8) Subparagraph (A) of section 7701(i)(2) is
9 amended by inserting “or a FASIT” after “a
10 REMIC”.

11 (c) CLERICAL AMENDMENT.—The table of parts for
12 subchapter M of chapter 1 is amended by adding at the
13 end the following new item:

 “Part V. Financial asset securitization investment trusts.”.

14 (d) EFFECTIVE DATE.—The amendments made by this
15 section shall take effect on the date of the enactment of this
16 Act.

17 **CHAPTER 8—DEPRECIATION PROVISIONS**

18 **SEC. 11361. TREATMENT OF CONTRIBUTIONS IN AID OF** 19 **CONSTRUCTION.**

20 (a) TREATMENT OF CONTRIBUTIONS IN AID OF CON-
21 STRUCTION.—

22 (1) IN GENERAL.—Section 118 (relating to con-
23 tributions to the capital of a corporation) is amend-
24 ed—

1 (A) by redesignating subsection (c) as sub-
2 section (e), and

3 (B) by inserting after subsection (b) the fol-
4 lowing new subsections:

5 “(c) *SPECIAL RULES FOR WATER AND SEWERAGE*
6 *DISPOSAL UTILITIES.*—

7 “(1) *GENERAL RULE.*—For purposes of this sec-
8 tion, the term ‘contribution to the capital of the tax-
9 payer’ includes any amount of money or other prop-
10 erty received from any person (whether or not a
11 shareholder) by a regulated public utility which pro-
12 vides water or sewerage disposal services if—

13 “(A) such amount is a contribution in aid
14 of construction,

15 “(B) in the case of contribution of property
16 other than water or sewerage disposal facilities,
17 such amount meets the requirements of the ex-
18 penditure rule of paragraph (2), and

19 “(C) such amount (or any property ac-
20 quired or constructed with such amount) is not
21 included in the taxpayer’s rate base for rate-
22 making purposes.

23 “(2) *EXPENDITURE RULE.*—An amount meets
24 the requirements of this paragraph if—

1 “(A) an amount equal to such amount is
2 expended for the acquisition or construction of
3 tangible property described in section 1231(b)—

4 “(i) which is the property for which
5 the contribution was made or is of the same
6 type as such property, and

7 “(ii) which is used predominantly in
8 the trade or business of furnishing water or
9 sewerage disposal services,

10 “(B) the expenditure referred to in subpara-
11 graph (A) occurs before the end of the second tax-
12 able year after the year in which such amount
13 was received, and

14 “(C) accurate records are kept of the
15 amounts contributed and expenditures made, the
16 expenditures to which contributions are allo-
17 cated, and the year in which the contributions
18 and expenditures are received and made.

19 “(3) *DEFINITIONS.*—For purposes of this sub-
20 section—

21 “(A) *CONTRIBUTION IN AID OF CONSTRUC-*
22 *TION.*—The term ‘contribution in aid of con-
23 struction’ shall be defined by regulations pre-
24 scribed by the Secretary, except that such term

1 *shall not include amounts paid as service*
2 *charges for starting or stopping services.*

3 “(B) *PREDOMINANTLY.*—*The term ‘pre-*
4 *dominantly’ means 80 percent or more.*

5 “(C) *REGULATED PUBLIC UTILITY.*—*The*
6 *term ‘regulated public utility’ has the meaning*
7 *given such term by section 7701(a)(33), except*
8 *that such term shall not include any utility*
9 *which is not required to provide water or sewer-*
10 *age disposal services to members of the general*
11 *public in its service area.*

12 “(4) *DISALLOWANCE OF DEDUCTIONS AND CRED-*
13 *ITS; ADJUSTED BASIS.*—*Notwithstanding any other*
14 *provision of this subtitle, no deduction or credit shall*
15 *be allowed for, or by reason of, any expenditure which*
16 *constitutes a contribution in aid of construction to*
17 *which this subsection applies. The adjusted basis of*
18 *any property acquired with contributions in aid of*
19 *construction to which this subsection applies shall be*
20 *zero.*

21 “(d) *STATUTE OF LIMITATIONS.*—*If the taxpayer for*
22 *any taxable year treats an amount as a contribution to the*
23 *capital of the taxpayer described in subsection (c), then—*

24 “(1) *the statutory period for the assessment of*
25 *any deficiency attributable to any part of such*

1 amount shall not expire before the expiration of 3
2 years from the date the Secretary is notified by the
3 taxpayer (in such manner as the Secretary may pre-
4 scribe) of—

5 “(A) the amount of the expenditure referred
6 to in subparagraph (A) of subsection (c)(2),

7 “(B) the taxpayer’s intention not to make
8 the expenditures referred to in such subpara-
9 graph, or

10 “(C) a failure to make such expenditure
11 within the period described in subparagraph (B)
12 of subsection (c)(2); and

13 “(2) such deficiency may be assessed before the
14 expiration of such 3-year period notwithstanding the
15 provisions of any other law or rule of law which
16 would otherwise prevent such assessment.”.

17 (2) CONFORMING AMENDMENT.—Section 118(b)
18 is amended by inserting “except as provided in sub-
19 section (c),” before “the term”.

20 (3) EFFECTIVE DATE.—The amendments made
21 by this subsection shall apply to amounts received
22 after the date of the enactment of this Act.

23 (b) RECOVERY METHOD AND PERIOD FOR WATER
24 UTILITY PROPERTY.—

1 (1) *REQUIREMENT TO USE STRAIGHT LINE*
 2 *METHOD.*—Section 168(b)(3) is amended by adding
 3 at the end the following new subparagraph:

4 “(F) Water utility property described in
 5 subsection (e)(5).”.

6 (2) *25-YEAR RECOVERY PERIOD.*—The table con-
 7 tained in section 168(c)(1) is amended by inserting
 8 the following item after the item relating to 20-year
 9 property:

“Water utility property 25 years”.

10 (3) *WATER UTILITY PROPERTY.*—

11 (A) *IN GENERAL.*—Section 168(e) is amend-
 12 ed by adding at the end the following new para-
 13 graph:

14 “(5) *WATER UTILITY PROPERTY.*—The term
 15 ‘water utility property’ means property—

16 “(A) which is an integral part of the gath-
 17 ering, treatment, or commercial distribution of
 18 water, and which, without regard to this para-
 19 graph, would be 20-year property, and

20 “(B) any municipal sewer.”.

21 (B) *CONFORMING AMENDMENTS.*—Section
 22 168 is amended—

23 (i) by striking subparagraph (F) of
 24 subsection (e)(3), and

1 (ii) by striking the item relating to
2 subparagraph (F) in the table in subsection
3 (g)(3).

4 (4) *ALTERNATIVE SYSTEM.*—Clause (iv) of sec-
5 tion 168(g)(2)(C) is amended by inserting “or water
6 utility property” after “tunnel bore”.

7 (5) *EFFECTIVE DATE.*—The amendments made
8 by this subsection shall apply to property placed in
9 service after the date of the enactment of this Act,
10 other than property placed in service pursuant to a
11 binding contract in effect on such date and at all
12 times thereafter before the property is placed in serv-
13 ice.

14 **SEC. 11362. DEDUCTION FOR CERTAIN OPERATING AU-**
15 **THORITY.**

16 (a) *GENERAL RULE.*—For purpose of chapter 1 of the
17 *Internal Revenue Code of 1986*, in computing the taxable
18 *income of a taxpayer who, on January 1, 1995, held one*
19 *or more operating authorities preempted by section 601 of*
20 *the Federal Aviation Administration Authorization Act of*
21 *1994, the taxpayer shall be entitled to deduct ratably over*
22 *the 36-month period beginning with January 1995 an*
23 *amount equal to the aggregate adjusted bases of such operat-*
24 *ing authorities held by the taxpayer on January 1, 1995.*

1 *which section 168 of the Internal Revenue Code of 1986 ap-*
 2 *plies after the amendment made by section 201 of the Tax*
 3 *Reform Act of 1986. A taxpayer may elect to have such*
 4 *amendments apply with respect to any property placed in*
 5 *service before such date and to which such section so applies.*

6 **CHAPTER 9—OTHER PROVISIONS**

7 **SEC. 11371. APPLICATION OF FAILURE-TO-PAY PENALTY TO**
 8 **SUBSTITUTE RETURNS.**

9 (a) *GENERAL RULE.*—Section 6651 (relating to failure
 10 to file tax return or to pay tax) is amended by adding at
 11 the end the following new subsection:

12 “(g) *TREATMENT OF RETURNS PREPARED BY SEC-*
 13 *RETARY UNDER SECTION 6020(b).*—In the case of any re-
 14 turn made by the Secretary under section 6020(b)—

15 “(1) *such return shall be disregarded for pur-*
 16 *poses of determining the amount of the addition*
 17 *under paragraph (1) of subsection (a), but*

18 “(2) *such return shall be treated as the return*
 19 *filed by the taxpayer for purposes of determining the*
 20 *amount of the addition under paragraphs (2) and (3)*
 21 *of subsection (a).”.*

22 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 23 section (a) shall apply in the case of any return the due
 24 date for which (determined without regard to extensions)
 25 is after the date of the enactment of this Act.

1 **SEC. 11372. EXTENSION OF WITHHOLDING TO CERTAIN**
 2 **GAMBLING WINNINGS.**

3 (a) *REPEAL OF EXEMPTION FOR BINGO AND KENO.*—
 4 Paragraph (5) of section 3402(q) is amended to read as fol-
 5 lows:

6 “(5) *EXEMPTION FOR SLOT MACHINES.*—The tax
 7 imposed under paragraph (1) shall not apply to
 8 winnings from a slot machine.”.

9 (b) *THRESHOLD AMOUNT.*—Paragraph (3) of section
 10 3402(q) is amended—

11 (1) by striking “(B) and (C)” in subparagraph
 12 (A) and inserting “(B), (C), and (D)”, and

13 (2) by adding at the end the following new sub-
 14 paragraph:

15 “(D) *BINGO AND KENO.*—Proceeds of more
 16 than \$5,000 from a wager placed in a bingo or
 17 keno game.”.

18 (c) *EFFECTIVE DATE.*—The amendments made by this
 19 section shall take effect on January 1, 1996.

20 **SEC. 11373. LOSSES FROM FORECLOSURE PROPERTY.**

21 (a) *IN GENERAL.*—Section 818(b) is amended by add-
 22 ing at the end the following new paragraph:

23 “(2) *LOSSES FROM FORECLOSURE PROPERTY.*—

24 “(A) *IN GENERAL.*—The amortizable por-
 25 tion of any loss arising from the sale or exchange
 26 of foreclosure property which (without regard to

1 *this paragraph) is treated as a capital loss shall*
2 *be treated as a loss from the sale or exchange of*
3 *real property used in carrying on an insurance*
4 *business which is recognized ratably over the 10-*
5 *taxable year period beginning with the taxable*
6 *year following the taxable year in which the sale*
7 *or exchange of the foreclosure property occurred.*

8 “(B) *AMORTIZABLE PORTION.*—*For pur-*
9 *poses of this paragraph—*

10 “(i) *IN GENERAL.*—*The amortizable*
11 *portion of a loss referred to in subpara-*
12 *graph (A) is the percentage (not greater*
13 *than 20 percent) of such loss to which the*
14 *taxpayer elects to have this paragraph*
15 *apply.*

16 “(ii) *SUBSEQUENT MODIFICATIONS OF*
17 *AMOUNT.*—*The taxpayer may elect for any*
18 *of the taxable years in the change period to*
19 *change (subject to the limitation under*
20 *clause (i)) the percentage of a loss referred*
21 *to in subparagraph (A) which is treated as*
22 *the amortizable portion of such loss. If the*
23 *taxpayer so elects, each such changed per-*
24 *centage shall be treated as if it were the per-*
25 *centage specified in the election made under*

1 *clause (i), and proper adjustments shall be*
2 *made for all taxable years to reflect each*
3 *such change.*

4 “(iii) *STATUTE OF LIMITATIONS.— For*
5 *purposes of section 6501(h) and 6511(d)(2),*
6 *any change by reason of an election under*
7 *clause (ii) shall be treated as a capital loss*
8 *carryback from the year such change is*
9 *made.*

10 “(iv) *CHANGE PERIOD.—For purposes*
11 *of clause (ii), the change period is the 3-tax-*
12 *able year period following the taxable year*
13 *in which the sale or exchange of the fore-*
14 *closure property occurred.*

15 “(C) *ELECTION TO TREAT UNAMORTIZED*
16 *ORDINARY LOSSES AS CAPITAL LOSSES.—*

17 “(i) *IN GENERAL.—The taxpayer may*
18 *elect to treat any unused amount of any or-*
19 *inary loss described in subparagraph (A)*
20 *as a capital loss arising in the taxable year*
21 *for which the election under this subpara-*
22 *graph is made.*

23 “(ii) *LIMITATION ON ELECTION.—An*
24 *election may be made under clause (i) with*
25 *respect to any loss only for any taxable year*

1 *in the 5-taxable year period following the*
2 *taxable year referred to in subparagraph*
3 *(A).*

4 “(iii) *UNUSED AMOUNT OF ORDINARY*
5 *LOSS.—For purposes of clause (i), the un-*
6 *used amount of an ordinary loss is the*
7 *amount of the amortizable portion of any*
8 *loss which has not been recognized as of the*
9 *close of the preceding taxable year.*

10 “(iv) *ORDERING RULE.—Any unused*
11 *amount of an ordinary loss with respect to*
12 *which an election was made under clause*
13 *(i) shall be treated as coming first from the*
14 *last taxable year in the 10-taxable year pe-*
15 *riod referred to in subparagraph (A) and*
16 *then from each preceding taxable year in re-*
17 *verse chronological order.*

18 “(D) *FORECLOSURE PROPERTY.—For pur-*
19 *poses of this paragraph, the term ‘foreclosure*
20 *property’ means any real property used in a*
21 *trade or businesses (as defined in section 1231(b)*
22 *without regard to this subsection) which is ac-*
23 *quired by a life insurance company as the result*
24 *of—*

1 “(i) such company having bid on such
2 property at foreclosure, or

3 “(ii) such company having otherwise
4 reduced such property to ownership or pos-
5 session by agreement or process of law, after
6 there was a default (or default was immi-
7 nent) on indebtedness which such property
8 secured.

9 “(E) TIME FOR MAKING ELECTIONS.—Any
10 election under this paragraph for any taxable
11 year shall be made on or before the due date (in-
12 cluding extensions) for the return of tax for such
13 taxable year.”

14 (b) CONFORMING AMENDMENTS.—Section 818(b) is
15 amended—

16 (1) by striking “In the” and inserting:

17 “(1) IN GENERAL.—In the ”, and

18 (2) by redesignating paragraphs (1) and (2) and
19 subparagraphs (A) and (B) of paragraph (1) as sub-
20 paragraphs (A) and (B) and clauses (i) and (ii) of
21 subparagraph (A), respectively.

22 (c) EFFECTIVE DATE.—The amendments made by this
23 section shall apply to taxable years beginning after Decem-
24 ber 31, 1994.

1 **SEC. 11374. NONRECOGNITION TREATMENT FOR CERTAIN**
2 **TRANSFERS BY COMMON TRUST FUNDS TO**
3 **REGULATED INVESTMENT COMPANIES.**

4 (a) *GENERAL RULE.*—Section 584 (relating to com-
5 mon trust funds) is amended by redesignating subsection
6 (h) as subsection (i) and by inserting after subsection (g)
7 the following new subsection:

8 “(h) *NONRECOGNITION TREATMENT FOR CERTAIN*
9 *TRANSFERS TO REGULATED INVESTMENT COMPANIES.*—

10 “(1) *IN GENERAL.*—If—

11 “(A) pursuant to a single plan, a common
12 trust fund transfers substantially all of its assets
13 to one or more regulated investment companies
14 in exchange solely for stock in the company or
15 companies to which such assets are so trans-
16 ferred, and

17 “(B) such stock is distributed by such com-
18 mon trust fund to participants in such common
19 trust fund in exchange solely for their interests
20 in such common trust fund,

21 no gain or loss shall be recognized by such common
22 trust fund by reason of such transfer or distribution,
23 and no gain or loss shall be recognized by any partic-
24 ipant in such common trust fund by reason of such
25 exchange.

26 “(2) *BASIS RULES.*—

1 “(A) *REGULATED INVESTMENT COMPANY.*—
2 *The basis of any asset received by a regulated in-*
3 *vestment company in a transfer referred to in*
4 *paragraph (1)(A) shall be the same as it would*
5 *be in the hands of the common trust fund.*

6 “(B) *PARTICIPANTS.*—*The basis of the stock*
7 *which is received in an exchange referred to in*
8 *paragraph (1)(B) shall be the same as that of the*
9 *property exchanged. If stock in more than one*
10 *regulated investment company is received in*
11 *such exchange, the basis determined under the*
12 *preceding sentence shall be allocated among the*
13 *stock in each such company on the basis of re-*
14 *spective fair market values.*

15 “(3) *TREATMENT OF ASSUMPTIONS OF LIABIL-*
16 *ITY.*—

17 “(A) *IN GENERAL.*—*In determining whether*
18 *the transfer referred to in paragraph (1)(A) is in*
19 *exchange solely for stock in one or more regu-*
20 *lated investment companies, the assumption by*
21 *any such company of a liability of the common*
22 *trust fund, and the fact that any property trans-*
23 *ferred by the common trust fund is subject to a*
24 *liability, shall be disregarded.*

1 “(B) *SPECIAL RULE WHERE ASSUMED LI-*
2 *ABILITIES EXCEED BASIS.—*

3 “(i) *IN GENERAL.—If, in any transfer*
4 *referred to in paragraph (1)(A), the as-*
5 *sumed liabilities exceed the aggregate ad-*
6 *justed bases (in the hands of the common*
7 *trust fund) of the assets transferred to the*
8 *regulated investment company or compa-*
9 *nies—*

10 “(I) *notwithstanding paragraph*
11 *(1), gain shall be recognized to the*
12 *common trust fund on such transfer in*
13 *an amount equal to such excess,*

14 “(II) *the basis of the assets re-*
15 *ceived by the regulated investment*
16 *company or companies in such trans-*
17 *fer shall be increased by the amount so*
18 *recognized, and*

19 “(III) *any adjustment to the basis*
20 *of a participant’s interest in the com-*
21 *mon trust fund as a result of the gain*
22 *so recognized shall be treated as occur-*
23 *ring immediately before the exchange*
24 *referred to in paragraph (1)(B).*

1 *If the transfer referred to in paragraph*
2 *(1)(A) is to two or more regulated invest-*
3 *ment companies, the basis increase under*
4 *subclause (II) shall be allocated among such*
5 *companies on the basis of the respective fair*
6 *market values of the assets received by each*
7 *of such companies.*

8 *“(i) ASSUMED LIABILITIES.—For pur-*
9 *poses of clause (i), the term ‘assumed liabil-*
10 *ities’ means the aggregate of—*

11 *“(I) any liability of the common*
12 *trust fund assumed by any regulated*
13 *investment company in connection*
14 *with the transfer referred to in para-*
15 *graph (1)(A), and*

16 *“(II) any liability to which prop-*
17 *erty so transferred is subject.*

18 *“(4) COMMON TRUST FUND MUST MEET DIVER-*
19 *SIFICATION RULES.—This subsection shall not apply*
20 *to any common trust fund which would not meet the*
21 *requirements of section 368(a)(2)(F)(ii) if it were a*
22 *corporation. For purposes of the preceding sentence,*
23 *Government securities shall not be treated as securi-*
24 *ties of an issuer in applying the 25-percent and 50-*
25 *percent test and such securities shall not be excluded*

1 for purposes of determining total assets under clause
2 (iv) of section 368(a)(2)(F).”.

3 (b) *EFFECTIVE DATE.*—The amendment made by sub-
4 section (a) shall apply to transfers after December 31, 1995.

5 **SEC. 11375. EXCLUSION FOR ENERGY CONSERVATION SUB-**
6 **SIDIES LIMITED TO SUBSIDIES WITH RE-**
7 **SPECT TO DWELLING UNITS.**

8 (a) *IN GENERAL.*—Paragraph (1) of section 136(c)
9 (defining energy conservation measure) is amended by
10 striking “energy demand—” and all that follows and in-
11 serting “energy demand with respect to a dwelling unit.”

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) Subsection (a) of section 136 is amended to
14 read as follows:

15 “(a) *EXCLUSION.*—Gross income shall not include the
16 value of any subsidy provided (directly or indirectly) by
17 a public utility to a customer for the purchase or installa-
18 tion of any energy conservation measure.”

19 (2) Paragraph (2) of section 136(c) is amend-
20 ed—

21 (A) by striking subparagraph (A) and by
22 redesignating subparagraphs (B) and (C) as sub-
23 paragraphs (A) and (B), respectively, and

24 (B) by striking “AND SPECIAL RULES” in
25 the paragraph heading.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to amounts received after December 31,*
 3 *1995, unless received pursuant to a written binding con-*
 4 *tract in effect on September 13, 1995, and at all times there-*
 5 *after.*

6 **SEC. 11376. ELECTION TO CEASE STATUS AS QUALIFIED**
 7 **SCHOLARSHIP FUNDING CORPORATION.**

8 (a) *IN GENERAL.*—*Subsection (d) of section 150 (relat-*
 9 *ing to definitions and special rules) is amended by adding*
 10 *at the end thereof the following new paragraph:*

11 “(3) *ELECTION TO CEASE STATUS AS QUALIFIED*
 12 *SCHOLARSHIP FUNDING CORPORATION.*—

13 “(A) *IN GENERAL.*—*Any qualified scholar-*
 14 *ship funding bond, and qualified student loan*
 15 *bond, outstanding on the date of the issuer’s elec-*
 16 *tion under this paragraph (and any bond (or se-*
 17 *ries of bonds) issued to refund such a bond) shall*
 18 *not fail to be a tax-exempt bond solely because*
 19 *the issuer ceases to be described in subpara-*
 20 *graphs (A) and (B) of paragraph (2) if the is-*
 21 *ssuer meets the requirements of subparagraphs*
 22 *(B) and (C) of this paragraph.*

23 “(B) *ASSETS AND LIABILITIES OF ISSUER*
 24 *TRANSFERRED TO TAXABLE SUBSIDIARY.*—*The*

1 *requirements of this subparagraph are met by an*
2 *issuer if—*

3 *“(i) all of the student loan notes of the*
4 *issuer and other assets pledged to secure the*
5 *repayment of qualified scholarship funding*
6 *bond indebtedness of the issuer are trans-*
7 *ferred to another corporation within a rea-*
8 *sonable period after the election is made*
9 *under this paragraph;*

10 *“(ii) such transferee corporation as-*
11 *sumes or otherwise provides for the payment*
12 *of all of the qualified scholarship funding*
13 *bond indebtedness of the issuer within a*
14 *reasonable period after the election is made*
15 *under this paragraph;*

16 *“(iii) to the extent permitted by law,*
17 *such transferee corporation assumes all of*
18 *the responsibilities, and succeeds to all of*
19 *the rights, of the issuer under the issuer’s*
20 *agreements with the Secretary of Education*
21 *in respect of student loans;*

22 *“(iv) immediately after such transfer,*
23 *the issuer, together with any other issuer*
24 *which has made an election under this*
25 *paragraph in respect of such transferee,*

1 *hold all of the senior stock in such transferee*
2 *corporation; and*

3 “(v) *such transferee corporation is not*
4 *exempt from tax under this chapter.*

5 “(C) *ISSUER TO OPERATE AS INDEPENDENT*
6 *ORGANIZATION DESCRIBED IN SECTION*
7 *501(c)(3).—The requirements of this subpara-*
8 *graph are met by an issuer if, within a reason-*
9 *able period after the transfer referred to in sub-*
10 *paragraph (B)—*

11 “(i) *the issuer is described in section*
12 *501(c)(3) and exempt from tax under sec-*
13 *tion 501(a);*

14 “(ii) *the issuer no longer is described*
15 *in subparagraphs (A) and (B) of paragraph*
16 *(2); and*

17 “(iii) *at least 80 percent of the mem-*
18 *bers of the board of directors of the issuer*
19 *are independent members.*

20 “(D) *SENIOR STOCK.—For purposes of this*
21 *paragraph, the term ‘senior stock’ means stock—*

22 “(i) *which participates pro rata and*
23 *fully in the equity value of the corporation*
24 *with all other common stock of the corpora-*
25 *tion but which has the right to payment of*

1 *liquidation proceeds prior to payment of*
2 *liquidation proceeds in respect of other com-*
3 *mon stock of the corporation;*

4 “(ii) *which has a fixed right upon liq-*
5 *uidation and upon redemption to an*
6 *amount equal to the greater of—*

7 “(I) *the fair market value of such*
8 *stock on the date of liquidation or re-*
9 *demption (whichever is applicable); or*

10 “(II) *the fair market value of all*
11 *assets transferred in exchange for such*
12 *stock and reduced by the amount of all*
13 *liabilities of the corporation which has*
14 *made an election under this paragraph*
15 *assumed by the transferee corporation*
16 *in such transfer;*

17 “(iii) *the holder of which has the right*
18 *to require the transferee corporation to re-*
19 *deem on a date that is not later than 10*
20 *years after the date on which an election*
21 *under this paragraph was made and pursu-*
22 *ant to such election such stock was issued;*
23 *and*

24 “(iv) *in respect of which, during the*
25 *time such stock is outstanding, there is not*

1 *outstanding any equity interest in the cor-*
2 *poration having any liquidation, redemp-*
3 *tion or dividend rights in the corporation*
4 *which are superior to those of such stock.*

5 *“(E) INDEPENDENT MEMBER.—The term*
6 *‘independent member’ means a member of the*
7 *board of directors of the issuer who (except for*
8 *services as a member of such board) receives no*
9 *compensation directly or indirectly—*

10 *“(i) for services performed in connec-*
11 *tion with such transferee corporation, or*

12 *“(ii) for services as a member of the*
13 *board of directors or as an officer of such*
14 *transferee corporation.*

15 *For purposes of clause (ii), the term ‘officer’ in-*
16 *cludes any individual having powers or respon-*
17 *sibilities similar to those of officers.*

18 *“(F) COORDINATION WITH CERTAIN PRI-*
19 *VATE FOUNDATION TAXES.—For purposes of sec-*
20 *tions 4942 (relating to the excise tax on a failure*
21 *to distribute income) and 4943 (relating to the*
22 *excise tax on excess business holdings), the trans-*
23 *feree corporation referred to in subparagraph (B)*
24 *shall be treated as a functionally related business*
25 *(within the meaning of section 4942(j)(4)) with*

1 *respect to the issuer during the period commenc-*
2 *ing with the date on which an election is made*
3 *under this paragraph and ending on the date*
4 *that is the earlier of—*

5 “(i) *the last day of the last taxable*
6 *year for which more than 50 percent of the*
7 *gross income of such transferee corporation*
8 *is derived from, or more than 50 percent of*
9 *the assets (by value) of such transferee cor-*
10 *poration consists of, student loan notes in-*
11 *curring under the Higher Education Act of*
12 *1965; or*

13 “(ii) *the last day of the taxable year of*
14 *the issuer during which occurs the date*
15 *which is 10 years after the date on which*
16 *the election under this paragraph is made.*

17 “(G) *ELECTION.—An election under this*
18 *paragraph may be revoked only with the consent*
19 *of the Secretary.”*

20 (b) *EFFECTIVE DATE.—The amendment made by this*
21 *section shall take effect on the date of the enactment of this*
22 *Act.*

1 **SEC. 11377. CERTAIN AMOUNTS DERIVED FROM FOREIGN**
2 **CORPORATIONS TREATED AS UNRELATED**
3 **BUSINESS TAXABLE INCOME.**

4 (a) *GENERAL RULE.*—Subsection (b) of section 512
5 (relating to modifications) is amended by adding at the end
6 thereof the following new paragraph:

7 “(18) *TREATMENT OF CERTAIN AMOUNTS DE-*
8 *RIVED FROM FOREIGN CORPORATIONS.*—

9 “(A) *IN GENERAL.*—Notwithstanding para-
10 graph (1), any amount included in gross income
11 under section 951(a)(1)(A) shall be included as
12 an item of gross income derived from an unre-
13 lated trade or business to the extent the amount
14 so included is attributable to insurance income
15 (as defined in section 953) which, if derived di-
16 rectly by the organization, would be treated as
17 gross income from an unrelated trade or busi-
18 ness. There shall be allowed all deductions di-
19 rectly connected with amounts included in gross
20 income under the preceding sentence.

21 “(B) *EXCEPTION.*—Subparagraph (A) shall
22 not apply to income attributable to a policy of
23 insurance or reinsurance with respect to which
24 the person (directly or indirectly) insured is—

25 “(i) such organization,

1 “(ii) an affiliate of such organization
2 which is exempt from tax under section
3 501(a), or

4 “(iii) a director or officer of, or an in-
5 dividual who performs services for, such or-
6 ganization or affiliate but only if the insur-
7 ance covers primarily risks associated with
8 the performance of services for the benefit of
9 such organization or affiliate.

10 For purposes of this subparagraph, the deter-
11 mination as to whether an entity is an affiliate
12 of an organization shall be made under rules
13 similar to the rules of section 168(h)(4)(B).

14 “(C) REGULATIONS.—The Secretary shall
15 prescribe such regulations as may be necessary
16 or appropriate to carry out the purposes of this
17 paragraph, including regulations for the appli-
18 cation of this paragraph in the case of income
19 paid through 1 or more entities or between 2 or
20 more chains of entities.”

21 (b) EFFECTIVE DATE.—The amendment made by this
22 section shall apply to amounts included in gross income
23 in any taxable year beginning after December 31, 1995.

1 (4) Section 246 is amended by striking sub-
2 section (f).

3 (5) Clause (i) of section 291(e)(1)(B) is amended
4 by striking “or to which section 593 applies”.

5 (6) Subparagraph (A) of section 585(a)(2) is
6 amended by striking “other than an organization to
7 which section 593 applies”.

8 (7) Sections 595 and 596 are hereby repealed.

9 (8) Subsection (a) of section 860E is amended—

10 (A) by striking “Except as provided in
11 paragraph (2), the” in paragraph (1) and in-
12 serting “The”,

13 (B) by striking paragraphs (2) and (4) and
14 redesignating paragraphs (3) and (5) as para-
15 graphs (2) and (3), respectively, and

16 (C) by striking in paragraph (2) (as so re-
17 designated) all that follows “subsection” and in-
18 serting a period.

19 (9) Paragraph (3) of section 992(d) is amended
20 by striking “or 593”.

21 (10) Section 1038 is amended by striking sub-
22 section (f).

23 (11) Clause (ii) of section 1042(c)(4)(B) is
24 amended by striking “or 593”.

1 (12) *Subsection (c) of section 1277 is amended*
2 *by striking “or to which section 593 applies”.*

3 (13) *Subparagraph (B) of section 1361(b)(2) is*
4 *amended by striking “or to which section 593 ap-*
5 *plies”.*

6 (14) *The table of sections for part II of sub-*
7 *chapter H of chapter 1 is amended by striking the*
8 *items relating to sections 593, 595, and 596.*

9 (c) *EFFECTIVE DATE.—*

10 (1) *IN GENERAL.—Except as provided in para-*
11 *graph (2), the amendments made by this section shall*
12 *apply to taxable years beginning after December 31,*
13 *1995.*

14 (2) *REPEAL OF SECTION 595.—The repeal of sec-*
15 *tion 595 under subsection (b)(7) shall apply to prop-*
16 *erty acquired in taxable years beginning after Decem-*
17 *ber 31, 1995.*

18 (d) *6-YEAR SPREAD OF ADJUSTMENTS.—*

19 (1) *IN GENERAL.—In the case of any taxpayer*
20 *who is required by reason of the amendments made*
21 *by this section to change its method of computing re-*
22 *serves for bad debts—*

23 (A) *such change shall be treated as a change*
24 *in a method of accounting,*

1 (B) such change shall be treated as initiated
2 by the taxpayer and as having been made with
3 the consent of the Secretary, and

4 (C) the net amount of the adjustments re-
5 quired to be taken into account by the taxpayer
6 under section 481(a)—

7 (i) shall be determined by taking into
8 account only applicable excess reserves, and

9 (ii) as so determined, shall be taken
10 into account ratably over the 6-taxable year
11 period beginning with the first taxable year
12 beginning after December 31, 1995.

13 (2) *APPLICABLE EXCESS RESERVES.*—

14 (A) *IN GENERAL.*—For purposes of para-
15 graph (1), the term ‘applicable excess reserves’
16 means the excess (if any) of—

17 (i) the balance of the reserves described
18 in section 593(c)(1) of such Code (as in ef-
19 fect on the day before the date of the enact-
20 ment of this Act) as of the close of the tax-
21 payer’s last taxable year beginning before
22 January 1, 1996, over

23 (ii) the lesser of—

24 (I) the balance of such reserves as
25 of the close of the taxpayer’s last tax-

1 able year beginning before January 1,
2 1988, or

3 (II) the balance of the reserves de-
4 scribed in subclause (I), reduce by an
5 amount determined in the same man-
6 ner as under section 585(b)(2)(B)(ii)
7 on the basis of the taxable years de-
8 scribed in clause (i) and this clause.

9 (B) SPECIAL RULE FOR THRIFTS WHICH
10 BECOME SMALL BANKS.—In the case of a bank
11 (as defined in section 581 of such Code) which
12 is not a large bank (as defined in section
13 585(c)(2) of such Code) for its first taxable year
14 beginning after December 31, 1995—

15 (i) the balance taken into account
16 under subparagraph (A)(ii) shall not be less
17 than the amount which would be the bal-
18 ance of such reserve as of the close of its last
19 taxable year beginning before January 1,
20 1996, if the additions to such reserve for all
21 taxable years had been determined under
22 section 585(b)(2)(A), and

23 (ii) the opening balance of the reserve
24 for bad debts as of the beginning of such
25 first taxable year shall be the balance taken

1 into account under subparagraph (A)(ii)
2 (determined after the application of clause
3 (i) of this subparagraph).

4 The preceding sentence shall not apply for pur-
5 poses of paragraphs (5), (6), and (7).

6 (3) *RECAPTURE OF PRE-1988 RESERVES WHERE*
7 *TAXPAYER CEASES TO BE BANK.*—If during any tax-
8 able year beginning after December 31, 1995, a tax-
9 payer to which paragraph (1) applied is not a bank
10 (as defined in section 581), paragraph (1) shall apply
11 to the reserves described in subparagraph (A)(ii) ex-
12 cept that such reserves shall be taken into account rat-
13 ably over the 6-taxable year period beginning with
14 such taxable year.

15 (4) *SUSPENSION OF RECAPTURE IF RESIDENTIAL*
16 *LOAN REQUIREMENT MET.*—

17 (A) *IN GENERAL.*—In the case of a bank
18 which meets the residential loan requirement of
19 subparagraph (B) for a taxable year beginning
20 after December 31, 1995, and before January 1,
21 1998—

22 (i) no adjustment shall be taken into
23 account under paragraph (1) for such tax-
24 able year, and

1 (ii) such taxable year shall be dis-
2 regarded in determining—

3 (I) whether any other taxable year
4 is a taxable year for which an adjust-
5 ment is required to be taken into ac-
6 count under paragraph (1), and

7 (II) the amount of such adjust-
8 ment.

9 (B) *RESIDENTIAL LOAN REQUIREMENT.*—A
10 taxpayer meets the residential loan requirement
11 of this subparagraph for any taxable year if the
12 principal amount of the residential loans made
13 by the taxpayer during such year is not less than
14 the base amount for such year.

15 (C) *RESIDENTIAL LOAN.*—For purposes of
16 this paragraph, the term “residential loan”
17 means any loan described in clause (v) of section
18 7701(a)(19)(C) of such Code but only if such
19 loan is incurred in acquiring, constructing, or
20 improving the property described in such clause.

21 (D) *BASE AMOUNT.*—For purposes of sub-
22 paragraph (B), the base amount is the average
23 of the principal amounts of the residential loans
24 made by the taxpayer during the 6 most recent
25 taxable years beginning before January 1, 1996.

1 *At the election of the taxpayer who made such*
2 *loans during each of such 6 taxable years, the*
3 *preceding sentence shall be applied without re-*
4 *gard to the taxable year in which such principal*
5 *amount was the highest and the taxable year in*
6 *such principal amount was the lowest. Such an*
7 *election may be made only for the first taxable*
8 *year beginning after December 31, 1995, and, if*
9 *made for such taxable year, shall apply to the*
10 *succeeding taxable year unless revoked with the*
11 *consent of the Secretary of the Treasury or his*
12 *delegate.*

13 *(E) CONTROLLED GROUPS.—In the case of*
14 *a taxpayer which is a member of any controlled*
15 *group of corporations described in section*
16 *1563(a)(1) of such Code, subparagraph (B) shall*
17 *be applied with respect to such group.*

18 *(5) CONTINUED APPLICATION OF FRESH START*
19 *UNDER SECTION 585 TRANSITIONAL RULES.—In the*
20 *case of a taxpayer to which paragraph (1) applied*
21 *and which was not a large bank (as defined in section*
22 *585(c)(2) of such Code) for its first taxable year be-*
23 *ginning after December 31, 1995:*

24 *(A) IN GENERAL.—For purposes of deter-*
25 *mining the net amount of adjustments referred to*

1 in section 585(c)(3)(A)(iii) of such Code, there
2 shall be taken into account only the excess of the
3 reserve for bad debts as of the close of the last
4 taxable year before the disqualification year over
5 the balance taken into account by such taxpayer
6 under paragraph (2)(A)(ii) of this subsection.

7 (B) TREATMENT UNDER ELECTIVE CUT-OFF
8 METHOD.—For purposes of applying section
9 585(c)(4) of such Code—

10 (i) the balance of the reserve taken into
11 account under subparagraph (B) thereof
12 shall be reduced by the balance taken into
13 account by such taxpayer under paragraph
14 (2)(A)(ii) of this subsection, and

15 (ii) no amount shall be includible in
16 gross income by reason of such reduction.

17 (6) CONTINUED APPLICATION OF SECTION
18 593(e).—Notwithstanding the amendments made by
19 this section, in the case of a taxpayer to which para-
20 graph (1) of this subsection applies, section 593(e) of
21 such Code (as in effect on the day before the date of
22 the enactment of this Act) shall continue to apply to
23 such taxpayer as if such taxpayer were a domestic
24 building and loan association but the amount of the
25 reserves taken into account under subparagraphs (B)

1 and (C) of section 593(e)(1) (as so in effect) shall be
2 the balance taken into account by such taxpayer
3 under paragraph (2)(A)(ii) of this subsection.

4 (7) *CERTAIN ITEMS INCLUDED AS SECTION 381(c)*
5 *ITEMS.*—*The balance of the applicable excess reserves,*
6 *and the balance taken into account by a taxpayer*
7 *under paragraph (2)(A)(ii) of this subsection, shall be*
8 *treated as items described in section 381(c) of such*
9 *Code.*

10 (8) *CONVERSIONS TO CREDIT UNIONS.*—*In the*
11 *case of a taxpayer to which paragraph (1) applied*
12 *which becomes a credit union described in section*
13 *501(c)(14)(A)—*

14 (A) *any amount required to be included in*
15 *the gross income of the credit union by reason of*
16 *this subsection shall be treated as derived from*
17 *an unrelated trade or business (as defined in sec-*
18 *tion 513), and*

19 (B) *for purposes of paragraph (3), the cred-*
20 *it union shall not be treated as if it were a bank.*

21 (9) *REGULATIONS.*—*The Secretary of the Treas-*
22 *ury or his delegate shall prescribe such regulations as*
23 *may be necessary to carry out this subsection, includ-*
24 *ing regulations providing for the application of para-*

1 *graphs (4) and (6) in the case of acquisitions, merg-*
2 *ers, spin-offs, and other reorganizations.*

3 **SEC. 11380. NEWSPAPER DISTRIBUTORS TREATED AS DI-**
4 **RECT SELLERS.**

5 *(a) IN GENERAL.—Section 3508(b)(2)(A) in amended*
6 *by striking “or” at the end of clause (i), by inserting “or”*
7 *at the end of clause (ii), and by inserting after clause (ii)*
8 *the following new clause:*

9 *“(iii) is engaged in the trade or busi-*
10 *ness of the delivering or distribution of*
11 *newspapers or shopping news (including*
12 *any services directly related to such trade or*
13 *business),”.*

14 *(b) EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to services performed after December 31,*
16 *1995.*

17 ***Subtitle J—Tax Simplification***

18 ***CHAPTER 1—PROVISIONS RELATING TO***

19 ***INDIVIDUALS***

20 ***Subchapter A—Provisions Relating To Roll-***
21 ***over of Gain on Sale of Principal Resi-***
22 ***dence***

23 **SEC. 11401. MULTIPLE SALES WITHIN ROLLOVER PERIOD.**

24 *(a) GENERAL RULE.—*

1 (1) *Section 1034(d) (relating to limitation on*
2 *rollover of gain on sale of principal residence), as*
3 *amended by sections 11321 and 11322, is amended by*
4 *striking paragraphs (1) and (2) and by redesignating*
5 *paragraphs (3) and (4) as paragraphs (1) and (2),*
6 *respectively.*

7 (2) *Paragraph (4) of section 1034(c) is amended*
8 *to read as follows:*

9 “(4) *If the taxpayer, during the period described*
10 *in subsection (a), purchases more than 1 residence*
11 *which is used by him as his principal residence at*
12 *some time within 2 years after the date of the sale of*
13 *the old residence, only the first of such residences so*
14 *used by him after the date of such sale shall constitute*
15 *the new residence.”*

16 (3) *Subsections (h)(1) and (k) of section 1034*
17 *are each amended by striking “(other than the 2 years*
18 *referred to in subsection (c)(4))”.*

19 (b) *EFFECTIVE DATE.—The amendments made by this*
20 *section shall apply to sales of old residences (within the*
21 *meaning of section 1034 of the Internal Revenue Code of*
22 *1986) after the date of the enactment of this Act.*

23 **SEC. 11402. SPECIAL RULES IN CASE OF DIVORCE.**

24 (a) *IN GENERAL.—Subsection (c) of section 1034 is*
25 *amended by adding at the end the following new paragraph:*

1 “(5) If—

2 “(A) a residence is sold by an individual
3 pursuant to a divorce or marital separation, and

4 “(B) the taxpayer used such residence as his
5 principal residence at any time during the 2-
6 year period ending on the date of such sale,

7 for purposes of this section, such residence shall be
8 treated as the taxpayer’s principal residence at the
9 time of such sale.”

10 (b) *EFFECTIVE DATE.*—The amendment made by sub-
11 section (a) shall apply to sales of old residences (within the
12 meaning of section 1034 of the Internal Revenue Code of
13 1986) after the date of the enactment of this Act.

14 **SEC. 11403. ONE-TIME EXCLUSION OF GAIN FROM SALE OF**
15 **PRINCIPAL RESIDENCE FOR CERTAIN**
16 **SPOUSES.**

17 (a) *IN GENERAL.*—Paragraph (2) of section 121(b)
18 (relating to one-time exclusion of gain from sale of prin-
19 cipal residence by individual who has attained age 55) is
20 amended by adding at the end the following new sentence:
21 “*For purposes of applying the preceding sentence to indi-*
22 *viduals who are married to each other, an election by one*
23 *individual with respect to a sale or exchange occurring be-*
24 *fore the marriage shall be disregarded for purposes of per-*
25 *mitting an election with respect to property owned and used*

1 *by the other individual as his principal residence through-*
 2 *out the 3-year period ending on the date of the marriage.”*

3 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
 4 *section (a) shall apply for purposes of determining whether*
 5 *an election may be made under section 121 of the Internal*
 6 *Revenue Code of 1986 with respect to a sale or exchange*
 7 *occurring after September 13, 1995.*

8 **Subchapter B—Other Provisions**

9 **SEC. 11411. TREATMENT OF CERTAIN REIMBURSED EX-** 10 **PENSES OF RURAL MAIL CARRIERS.**

11 **(a) IN GENERAL.**—*Section 162 (relating to trade or*
 12 *business expenses) is amended by redesignating subsection*
 13 *(o) as subsection (p) and by inserting after subsection (n)*
 14 *the following new subsection:*

15 **“(o) TREATMENT OF CERTAIN REIMBURSED EX-**
 16 **PENSES OF RURAL MAIL CARRIERS.**—

17 **“(1) GENERAL RULE.**—*In the case of any em-*
 18 *ployee of the United States Postal Service who per-*
 19 *forms services involving the collection and delivery of*
 20 *mail on a rural route and who receives qualified re-*
 21 *imbursements for the expenses incurred by such em-*
 22 *ployee for the use of a vehicle in performing such*
 23 *services—*

24 **“(A) the amount allowable as a deduction**
 25 *under this chapter for the use of a vehicle in per-*

1 *forming such services shall be equal to the*
2 *amount of such qualified reimbursements; and*

3 *“(B) such qualified reimbursements shall be*
4 *treated as paid under a reimbursement or other*
5 *expense allowance arrangement for purposes of*
6 *section 62(a)(2)(A) (and section 62(c) shall not*
7 *apply to such qualified reimbursements).*

8 *“(2) DEFINITION OF QUALIFIED REIMBURSE-*
9 *MENTS.—For purposes of this subsection, the term*
10 *‘qualified reimbursements’ means the amounts paid*
11 *by the United States Postal Service to employees as*
12 *an equipment maintenance allowance under the 1991*
13 *collective bargaining agreement between the United*
14 *States Postal Service and the National Rural Letter*
15 *Carriers’ Association. Amounts paid as an equipment*
16 *maintenance allowance by such Postal Service under*
17 *later collective bargaining agreements that supersede*
18 *the 1991 agreement shall be considered qualified reim-*
19 *bursements if such amounts do not exceed the*
20 *amounts that would have been paid under the 1991*
21 *agreement, adjusted for changes in the Consumer*
22 *Price Index (as defined in section 1(f)(5)) since*
23 *1991.”*

1 (b) *TECHNICAL AMENDMENT.*—Section 6008 of the
2 *Technical and Miscellaneous Revenue Act of 1988* is hereby
3 *repealed.*

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 *section shall apply to taxable years beginning after Decem-*
6 *ber 31, 1995.*

7 ***SEC. 11412. TREATMENT OF TRAVELING EXPENSES OF CER-***
8 ***TAIN FEDERAL EMPLOYEES ENGAGED IN***
9 ***CRIMINAL INVESTIGATIONS.***

10 (a) *IN GENERAL.*—Subsection (a) of section 162 is
11 *amended by adding at the end the following new sentence:*
12 *“The preceding sentence shall not apply to any Federal em-*
13 *ployee during any period for which such employee is cer-*
14 *tified by the Attorney General (or the designee thereof) as*
15 *traveling on behalf of the United States in temporary duty*
16 *status to investigate, or provide support services for the in-*
17 *vestigation of, a Federal crime.”*

18 (b) *EFFECTIVE DATE.*—The amendment made by sub-
19 *section (a) shall apply to taxable years ending after the date*
20 *of the enactment of this Act.*

1 **CHAPTER 2—PENSION SIMPLIFICATION**

2 **Subchapter A—Simplified Distribution Rules**

3 **SEC. 11421. REPEAL OF 5-YEAR INCOME AVERAGING FOR**

4 **LUMP-SUM DISTRIBUTIONS.**

5 (a) *IN GENERAL.*—Subsection (d) of section 402 (relat-
6 ing to taxability of beneficiary of employees’ trust) is
7 amended to read as follows:

8 “(d) *TAXABILITY OF BENEFICIARY OF CERTAIN FOR-*
9 *EIGN SITUS TRUSTS.*—For purposes of subsections (a), (b),
10 and (c), a stock bonus, pension, or profit-sharing trust
11 which would qualify for exemption from tax under section
12 501(a) except for the fact that it is a trust created or orga-
13 nized outside the United States shall be treated as if it were
14 a trust exempt from tax under section 501(a).”

15 (b) *CONFORMING AMENDMENTS.*—

16 (1) Subparagraph (D) of section 402(e)(4) (relat-
17 ing to other rules applicable to exempt trusts) is
18 amended to read as follows:

19 “(D) *LUMP-SUM DISTRIBUTION.*—For pur-
20 poses of this paragraph—

21 “(i) *IN GENERAL.*—The term ‘lump
22 sum distribution’ means the distribution or
23 payment within one taxable year of the re-
24 cipient of the balance to the credit of an em-

1 *ployee which becomes payable to the recipi-*
2 *ent—*

3 *“(I) on account of the employee’s*
4 *death,*

5 *“(II) after the employee attains*
6 *age 59½,*

7 *“(III) on account of the employ-*
8 *ee’s separation from service, or*

9 *“(IV) after the employee has be-*
10 *come disabled (within the meaning of*
11 *section 72(m)(7)),*

12 *from a trust which forms a part of a plan*
13 *described in section 401(a) and which is ex-*
14 *empt from tax under section 501 or from a*
15 *plan described in section 403(a). Subclause*
16 *(III) of this clause shall be applied only*
17 *with respect to an individual who is an em-*
18 *ployee without regard to section 401(c)(1),*
19 *and subclause (IV) shall be applied only*
20 *with respect to an employee within the*
21 *meaning of section 401(c)(1). For purposes*
22 *of this clause, a distribution to two or more*
23 *trusts shall be treated as a distribution to*
24 *one recipient. For purposes of this para-*
25 *graph, the balance to the credit of the em-*

1 *ployee does not include the accumulated de-*
2 *ductible employee contributions under the*
3 *plan (within the meaning of section*
4 *72(o)(5)).*

5 “(ii) *AGGREGATION OF CERTAIN*
6 *TRUSTS AND PLANS.—For purposes of deter-*
7 *mining the balance to the credit of an em-*
8 *ployee under clause (i)—*

9 *“(I) all trusts which are part of a*
10 *plan shall be treated as a single trust,*
11 *all pension plans maintained by the*
12 *employer shall be treated as a single*
13 *plan, all profit-sharing plans main-*
14 *tained by the employer shall be treated*
15 *as a single plan, and all stock bonus*
16 *plans maintained by the employer*
17 *shall be treated as a single plan, and*

18 *“(II) trusts which are not quali-*
19 *fied trusts under section 401(a) and*
20 *annuity contracts which do not satisfy*
21 *the requirements of section 404(a)(2)*
22 *shall not be taken into account.*

23 *“(iii) COMMUNITY PROPERTY LAWS.—*
24 *The provisions of this paragraph shall be*

1 *applied without regard to community prop-*
2 *erty laws.*

3 “(iv) *AMOUNTS SUBJECT TO PEN-*
4 *ALTY.—This paragraph shall not apply to*
5 *amounts described in subparagraph (A) of*
6 *section 72(m)(5) to the extent that section*
7 *72(m)(5) applies to such amounts.*

8 “(v) *BALANCE TO CREDIT OF EM-*
9 *PLOYEE NOT TO INCLUDE AMOUNTS PAY-*
10 *ABLE UNDER QUALIFIED DOMESTIC RELA-*
11 *TIONS ORDER.—For purposes of this para-*
12 *graph, the balance to the credit of an em-*
13 *ployee shall not include any amount pay-*
14 *able to an alternate payee under a qualified*
15 *domestic relations order (within the mean-*
16 *ing of section 414(p)).*

17 “(vi) *TRANSFERS TO COST-OF-LIVING*
18 *ARRANGEMENT NOT TREATED AS DISTRIBU-*
19 *TION.—For purposes of this paragraph, the*
20 *balance to the credit of an employee under*
21 *a defined contribution plan shall not in-*
22 *clude any amount transferred from such de-*
23 *defined contribution plan to a qualified cost-*
24 *of-living arrangement (within the meaning*

1 of section 415(k)(2)) under a defined benefit
2 plan.

3 “(vii) *LUMP-SUM DISTRIBUTIONS OF*
4 *ALTERNATE PAYEES.*—If any distribution
5 or payment of the balance to the credit of
6 an employee would be treated as a lump-
7 sum distribution, then, for purposes of this
8 paragraph, the payment under a qualified
9 domestic relations order (within the mean-
10 ing of section 414(p)) of the balance to the
11 credit of an alternate payee who is the
12 spouse or former spouse of the employee
13 shall be treated as a lump-sum distribution.
14 For purposes of this clause, the balance to
15 the credit of the alternate payee shall not
16 include any amount payable to the em-
17 ployee.”.

18 (2) Section 402(c) (relating to rules applicable to
19 rollovers from exempt trusts) is amended by striking
20 paragraph (10).

21 (3) Paragraph (1) of section 55(c) (defining reg-
22 ular tax) is amended by striking “shall not include
23 any tax imposed by section 402(d) and”.

24 (4) Paragraph (8) of section 62(a) (relating to
25 certain portion of lump-sum distributions from pen-

1 *sion plans taxed under section 402(d)) is hereby re-*
2 *pealed.*

3 *(5) Section 401(a)(28)(B) (relating to coordina-*
4 *tion with distribution rules) is amended by striking*
5 *clause (v).*

6 *(6) Subparagraph (B)(ii) of section 401(k)(10)*
7 *(relating to distributions that must be lump-sum dis-*
8 *tributions) is amended to read as follows:*

9 *“(i) LUMP-SUM DISTRIBUTION.—For pur-*
10 *poses of this subparagraph, the term ‘lump-sum*
11 *distribution’ means any distribution of the bal-*
12 *ance to the credit of an employee immediately*
13 *before the distribution.”.*

14 *(7) Section 406(c) (relating to termination of*
15 *status as deemed employee not to be treated as sepa-*
16 *ration from service for purposes of limitation of tax)*
17 *is hereby repealed.*

18 *(8) Section 407(c) (relating to termination of*
19 *status as deemed employee not to be treated as sepa-*
20 *ration from service for purposes of limitation of tax)*
21 *is hereby repealed.*

22 *(9) Section 691(c) (relating to deduction for es-*
23 *tate tax) is amended by striking paragraph (5).*

1 (10) Paragraph (1) of section 871(b) (relating to
2 imposition of tax) is amended by striking “section 1,
3 55, or 402(d)(1)” and inserting “section 1 or 55”.

4 (11) Subsection (b) of section 877 (relating to al-
5 ternative tax) is amended by striking “section 1, 55,
6 or 402(d)(1)” and inserting “section 1 or 55”.

7 (12) Section 4980A(c)(4) is amended—

8 (A) by striking “to which an election under
9 section 402(d)(4)(B) applies” and inserting “(as
10 defined in section 402(e)(4)(D)) with respect to
11 which the individual elects to have this para-
12 graph apply”;

13 (B) by adding at the end the following new
14 flush sentence:

15 “An individual may elect to have this paragraph
16 apply to only one lump-sum distribution.”, and

17 (C) by striking the heading and inserting:

18 “(4) SPECIAL ONE-TIME ELECTION.—”.

19 (13) Section 402(e) is amended by striking para-
20 graph (5).

21 (c) EFFECTIVE DATES.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to taxable years beginning
24 after December 31, 1998.

1 (2) *RETENTION OF CERTAIN TRANSITION*
2 *RULES.*—*Notwithstanding any other provision of this*
3 *section, the amendments made by this section shall*
4 *not apply to any distribution for which the taxpayer*
5 *elects the benefits of section 1122 (h)(3) or (h)(5) of*
6 *the Tax Reform Act of 1986. For purposes of the pre-*
7 *ceding sentence, the rules of sections 402(c)(10) and*
8 *402(d) of the Internal Revenue Code of 1986 (as in*
9 *effect before the amendments made by this Act) shall*
10 *apply.*

11 **SEC. 11422. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES'**

12 **DEATH BENEFITS.**

13 (a) *IN GENERAL.*—*Subsection (b) of section 101 is*
14 *hereby repealed.*

15 (b) *CONFORMING AMENDMENTS.*—

16 (1) *Subsection (c) of section 101 is amended by*
17 *striking “subsection (a) or (b)” and inserting “sub-*
18 *section (a)”.*

19 (2) *Sections 406(e) and 407(e) are each amended*
20 *by striking paragraph (2) and by redesignating para-*
21 *graph (3) as paragraph (2).*

22 (3) *Section 7701(a)(20) is amended by striking*
23 *“, for the purposes of applying the provisions of sec-*
24 *tion 101(b) with respect to employees’ death benefits”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 31, 1995.*

4 ***SEC. 11423. SIMPLIFIED METHOD FOR TAXING ANNUITY***
 5 ***DISTRIBUTIONS UNDER CERTAIN EMPLOYER***
 6 ***PLANS.***

7 (a) *GENERAL RULE.*—*Subsection (d) of section 72 (re-*
 8 *lating to annuities; certain proceeds of endowment and life*
 9 *insurance contracts) is amended to read as follows:*

10 “(d) *SPECIAL RULES FOR QUALIFIED EMPLOYER RE-*
 11 *TIREMENT PLANS.*—

12 “(1) *SIMPLIFIED METHOD OF TAXING ANNUITY*
 13 *PAYMENTS.*—

14 “(A) *IN GENERAL.*—*In the case of any*
 15 *amount received as an annuity under a qualified*
 16 *employer retirement plan—*

17 “(i) *subsection (b) shall not apply, and*

18 “(ii) *the investment in the contract*
 19 *shall be recovered as provided in this para-*
 20 *graph.*

21 “(B) *METHOD OF RECOVERING INVESTMENT*
 22 *IN CONTRACT.*—

23 “(i) *IN GENERAL.*—*Gross income shall*
 24 *not include so much of any monthly annu-*
 25 *ity payment under a qualified employer re-*

1 *tirement plan as does not exceed the amount*
 2 *obtained by dividing—*

3 *“(I) the investment in the con-*
 4 *tract (as of the annuity starting date),*
 5 *by*

6 *“(II) the number of anticipated*
 7 *payments determined under the table*
 8 *contained in clause (iii) (or, in the*
 9 *case of a contract to which subsection*
 10 *(c)(3)(B) applies, the number of*
 11 *monthly annuity payments under such*
 12 *contract).*

13 *“(ii) CERTAIN RULES MADE APPLICA-*
 14 *BLE.—Rules similar to the rules of para-*
 15 *graphs (2) and (3) of subsection (b) shall*
 16 *apply for purposes of this paragraph.*

17 *“(iii) NUMBER OF ANTICIPATED PAY-*
 18 *MENTS.—*

***“If the age of the
 primary annuitant on
 the annuity starting
 date is:***

***The number
 of anticipated
 payments is:***

<i>Not more than 55</i>	<i>360</i>
<i>More than 55 but not more than 60</i>	<i>310</i>
<i>More than 60 but not more than 65</i>	<i>260</i>
<i>More than 65 but not more than 70</i>	<i>210</i>
<i>More than 70</i>	<i>160.</i>

19 *“(C) ADJUSTMENT FOR REFUND FEATURE*
 20 *NOT APPLICABLE.—For purposes of this para-*
 21 *graph, investment in the contract shall be deter-*

1 *mined under subsection (c)(1) without regard to*
2 *subsection (c)(2).*

3 “(D) *SPECIAL RULE WHERE LUMP SUM*
4 *PAID IN CONNECTION WITH COMMENCEMENT OF*
5 *ANNUITY PAYMENTS.—If, in connection with the*
6 *commencement of annuity payments under any*
7 *qualified employer retirement plan, the taxpayer*
8 *receives a lump sum payment—*

9 *“(i) such payment shall be taxable*
10 *under subsection (e) as if received before the*
11 *annuity starting date, and*

12 *“(ii) the investment in the contract for*
13 *purposes of this paragraph shall be deter-*
14 *mined as if such payment had been so re-*
15 *ceived.*

16 “(E) *EXCEPTION.—This paragraph shall*
17 *not apply in any case where the primary annu-*
18 *itant has attained age 75 on the annuity start-*
19 *ing date unless there are fewer than 5 years of*
20 *guaranteed payments under the annuity.*

21 “(F) *ADJUSTMENT WHERE ANNUITY PAY-*
22 *MENTS NOT ON MONTHLY BASIS.—In any case*
23 *where the annuity payments are not made on a*
24 *monthly basis, appropriate adjustments in the*
25 *application of this paragraph shall be made to*

1 *take into account the period on the basis of*
2 *which such payments are made.*

3 “(G) *QUALIFIED EMPLOYER RETIREMENT*
4 *PLAN.—For purposes of this paragraph, the term*
5 *‘qualified employer retirement plan’ means any*
6 *plan or contract described in paragraph (1), (2),*
7 *or (3) of section 4974(c).*

8 “(2) *TREATMENT OF EMPLOYEE CONTRIBUTIONS*
9 *UNDER DEFINED CONTRIBUTION PLANS.—For pur-*
10 *poses of this section, employee contributions (and any*
11 *income allocable thereto) under a defined contribution*
12 *plan may be treated as a separate contract.”.*

13 “(b) *EFFECTIVE DATE.—The amendment made by this*
14 *section shall apply in cases where the annuity starting date*
15 *is after December 31, 1995.*

16 ***SEC. 11424. REQUIRED DISTRIBUTIONS.***

17 “(a) *IN GENERAL.—Section 401(a)(9)(C) (defining re-*
18 *quired beginning date) is amended to read as follows:*

19 “(C) *REQUIRED BEGINNING DATE.—For*
20 *purposes of this paragraph—*

21 “(i) *IN GENERAL.—The term ‘required*
22 *beginning date’ means April 1 of the cal-*
23 *endar year following the later of—*

24 “(I) *the calendar year in which*
25 *the employee attains age 70½, or*

1 “(II) *the calendar year in which*
2 *the employee retires.*

3 “(ii) *EXCEPTION.—Subclause (II) of*
4 *clause (i) shall not apply—*

5 “(I) *except as provided in section*
6 *409(d), in the case of an employee who*
7 *is a 5-percent owner (as defined in sec-*
8 *tion 416) with respect to the plan year*
9 *ending in the calendar year in which*
10 *the employee attains age 70½, or*

11 “(II) *for purposes of section 408*
12 *(a)(6) or (b)(3).*

13 “(iii) *ACTUARIAL ADJUSTMENT.—In*
14 *the case of an employee to whom clause*
15 *(i)(II) applies who retires in a calendar*
16 *year after the calendar year in which the*
17 *employee attains age 70½, the employee’s*
18 *accrued benefit shall be actuarially in-*
19 *creased to take into account the period after*
20 *age 70½ in which the employee was not re-*
21 *ceiving any benefits under the plan.*

22 “(iv) *EXCEPTION FOR GOVERNMENTAL*
23 *AND CHURCH PLANS.—Clauses (ii) and (iii)*
24 *shall not apply in the case of a govern-*
25 *mental plan or church plan. For purposes*

1 *or instrumentality thereof. This clause shall*
2 *not apply to a rural cooperative plan.*

3 “(ii) *TAX-EXEMPTS ELIGIBLE.—*

4 “(I) *IN GENERAL.—Any organiza-*
5 *tion exempt from tax under this sub-*
6 *title may include a qualified cash or*
7 *deferred arrangement as part of a plan*
8 *maintained by it.*

9 “(II) *TREATMENT OF INDIAN*
10 *TRIBAL GOVERNMENTS.—An employer*
11 *which is an Indian tribal government*
12 *(as defined in section 7701(a)(40)), a*
13 *subdivision of an Indian tribal govern-*
14 *ment (determined in accordance with*
15 *section 7871(d)), an agency or instru-*
16 *mentality of an Indian tribal govern-*
17 *ment or subdivision thereof, or a cor-*
18 *poration chartered under Federal,*
19 *State, or tribal law which is owned in*
20 *whole or in part by any of the fore-*
21 *going shall be treated as an organiza-*
22 *tion exempt from tax under this sub-*
23 *title for purposes of subclause (I).*

24 (b) *EFFECTIVE DATE.—The amendment made by this*
25 *section shall apply to plan years beginning after December*

1 31, 1996, but shall not apply to any cash or deferred ar-
2 rangement to which clause (i) of section 1116(f)(2)(B) of
3 the Tax Reform Act of 1986 applies.

4 **Subchapter C—Nondiscrimination Provisions**

5 **SEC. 11441. DEFINITION OF HIGHLY COMPENSATED EM-**
6 **PLLOYEES; REPEAL OF FAMILY AGGREGATION.**

7 (a) *IN GENERAL.*—Paragraph (1) of section 414(q)
8 (defining highly compensated employee) is amended to read
9 as follows:

10 “(1) *IN GENERAL.*—The term ‘highly com-
11 pensated employee’ means any employee who—

12 “(A) was a 5-percent owner at any time
13 during the year or the preceding year, or

14 “(B) for the preceding year had compensa-
15 tion from the employer in excess of \$80,000 and
16 was in the top-paid group of the employer.

17 *The Secretary shall adjust the \$80,000 amount under*
18 *subparagraph (B) at the same time and in the same*
19 *manner as under section 415(d), except that the base*
20 *period shall be the calendar quarter ending September*
21 *30, 1996.”.*

22 (b) *REPEAL OF FAMILY AGGREGATION RULES.*—

23 (1) *IN GENERAL.*—Paragraph (6) of section
24 414(q) is hereby repealed.

1 (2) *COMPENSATION LIMIT.*—Paragraph (17)(A)
2 of section 401(a) is amended by striking the last sen-
3 tence.

4 (3) *DEDUCTION.*—Subsection (l) of section 404 is
5 amended by striking the last sentence.

6 (c) *CONFORMING AMENDMENTS.*—

7 (1)(A) Subsection (q) of section 414 is amended
8 by striking paragraphs (2), (5), (8), and (12) and by
9 redesignating paragraphs (3), (4), (7), (9), (10), and
10 (11) as paragraphs (2) through (7), respectively.

11 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
12 408(k)(2)(C), and 416(i)(1)(D) are each amended by
13 striking “section 414(q)(7)” and inserting “section
14 414(q)(4)”.

15 (C) Section 416(i)(1)(A) is amended by striking
16 “section 414(q)(8)” and inserting “section 414(r)(9)”.

17 (2)(A) Section 414(r) is amended by adding at
18 the end the following new paragraph:

19 “(9) *EXCLUDED EMPLOYEES.*—For purposes of
20 this subsection, the following employees shall be ex-
21 cluded:

22 “(A) Employees who have not completed 6
23 months of service.

24 “(B) Employees who normally work less
25 than 17½ hours per week.

1 “(C) *Employees who normally work not*
2 *more than 6 months during any year.*”

3 “(D) *Employees who have not attained the*
4 *age of 21.*”

5 “(E) *Except to the extent provided in regu-*
6 *lations, employees who are included in a unit of*
7 *employees covered by an agreement which the*
8 *Secretary of Labor finds to be a collective bar-*
9 *gaining agreement between employee representa-*
10 *tives and the employer.*”

11 *Except as provided by the Secretary, the employer*
12 *may elect to apply subparagraph (A), (B), (C), or (D)*
13 *by substituting a shorter period of service, smaller*
14 *number of hours or months, or lower age for the pe-*
15 *riod of service, number of hours or months, or age (as*
16 *the case may be) specified in such subparagraph.”.*

17 (B) *Subparagraph (A) of section 414(r)(2) is*
18 *amended by striking “subsection (q)(8)” and inserting*
19 *“paragraph (9)”.*

20 (3) *Section 1114(c)(4) of the Tax Reform Act of*
21 *1986 is amended by adding at the end the following*
22 *new sentence: “Any reference in this paragraph to*
23 *section 414(q) shall be treated as a reference to such*
24 *section as in effect on the day before the date of the*

1 *enactment of the Revenue Reconciliation Act of*
2 *1995.”.*

3 *(d) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—The amendments made by*
5 *this section shall apply to years beginning after De-*
6 *cember 31, 1995, except that in determining whether*
7 *an employee is a highly compensated employee for*
8 *years beginning in 1996, such amendments shall be*
9 *treated as having been in effect for years beginning in*
10 *1995.*

11 *(2) FAMILY AGGREGATION.—The amendments*
12 *made by subsection (b) shall apply to years beginning*
13 *after December 31, 1995.*

14 **SEC. 11442. MODIFICATION OF ADDITIONAL PARTICIPATION**
15 **REQUIREMENTS.**

16 *(a) GENERAL RULE.—Section 401(a)(26)(A) (relating*
17 *to additional participation requirements) is amended to*
18 *read as follows:*

19 *“(A) IN GENERAL.—In the case of a trust which*
20 *is a part of a defined benefit plan, such trust shall*
21 *not constitute a qualified trust under this subsection*
22 *unless on each day of the plan year such trust benefits*
23 *at least the lesser of—*

24 *“(i) 50 employees of the employer, or*

25 *“(ii) the greater of—*

1 “(I) 40 percent of all employees of the
2 employer, or

3 “(II) 2 employees (or if there is only 1
4 employee, such employee).”.

5 (b) *SEPARATE LINE OF BUSINESS TEST*.—Section
6 401(a)(26)(G) (relating to separate line of business) is
7 amended by striking “paragraph (7)” and inserting “para-
8 graph (2)(A) or (7)”.

9 (c) *EFFECTIVE DATE*.—The amendment made by this
10 section shall apply to years beginning after December 31,
11 1995.

12 **SEC. 11443. NONDISCRIMINATION RULES FOR QUALIFIED**
13 **CASH OR DEFERRED ARRANGEMENTS AND**
14 **MATCHING CONTRIBUTIONS.**

15 (a) *ALTERNATIVE METHODS OF SATISFYING SECTION*
16 *401(k) NONDISCRIMINATION TESTS*.—Section 401(k) (relat-
17 ing to cash or deferred arrangements), as amended by this
18 Act, is amended by adding at the end the following new
19 paragraph:

20 “(12) *ALTERNATIVE METHODS OF MEETING NON-*
21 *DISCRIMINATION REQUIREMENTS*.—

22 “(A) *IN GENERAL*.—A cash or deferred ar-
23 rangement shall be treated as meeting the re-
24 quirements of paragraph (3)(A)(ii) if such ar-
25 rangement—

1 “(i) meets the contribution require-
2 ments of subparagraph (B) or (C), and

3 “(ii) meets the notice requirements of
4 subparagraph (D).

5 “(B) MATCHING CONTRIBUTIONS.—

6 “(i) IN GENERAL.—The requirements
7 of this subparagraph are met if, under the
8 arrangement, the employer makes matching
9 contributions on behalf of each employee
10 who is not a highly compensated employee
11 in an amount equal to—

12 “(I) 100 percent of the elective
13 contributions of the employee to the ex-
14 tent such elective contributions do not
15 exceed 3 percent of the employee’s com-
16 pensation, and

17 “(II) 50 percent of the elective
18 contributions of the employee to the ex-
19 tent that such elective contributions ex-
20 ceed 3 percent but do not exceed 5 per-
21 cent of the employee’s compensation.

22 “(ii) RATE FOR HIGHLY COMPENSATED
23 EMPLOYEES.—The requirements of this sub-
24 paragraph are not met if, under the ar-
25 rangement, the matching contribution with

1 *respect to any elective contribution of a*
2 *highly compensated employee at any level of*
3 *compensation is greater than that with re-*
4 *spect to an employee who is not a highly*
5 *compensated employee.*

6 “(iii) *ALTERNATIVE PLAN DESIGNS.—*
7 *If the matching contribution with respect to*
8 *any elective contribution at any specific*
9 *level of compensation is not equal to the*
10 *percentage required under clause (i), an ar-*
11 *rangement shall not be treated as failing to*
12 *meet the requirements of clause (i) if—*

13 “(I) *the level of an employer’s*
14 *matching contribution does not in-*
15 *crease as an employee’s elective con-*
16 *tributions increase, and*

17 “(II) *the aggregate amount of*
18 *matching contributions with respect to*
19 *elective contributions not in excess of*
20 *such level of compensation is at least*
21 *equal to the amount of matching con-*
22 *tributions which would be made if*
23 *matching contributions were made on*
24 *the basis of the percentages described in*
25 *clause (i).*

1 “(C) *NONELECTIVE CONTRIBUTIONS.*—*The*
2 *requirements of this subparagraph are met if,*
3 *under the arrangement, the employer is required,*
4 *without regard to whether the employee makes an*
5 *elective contribution or employee contribution, to*
6 *make a contribution to a defined contribution*
7 *plan on behalf of each employee who is not a*
8 *highly compensated employee and who is eligible*
9 *to participate in the arrangement in an amount*
10 *equal to at least 3 percent of the employee’s com-*
11 *penensation.*

12 “(D) *NOTICE REQUIREMENT.*—*An arrange-*
13 *ment meets the requirements of this paragraph*
14 *if, under the arrangement, each employee eligible*
15 *to participate is, within a reasonable period be-*
16 *fore any year, given written notice of the em-*
17 *ployee’s rights and obligations under the ar-*
18 *rangement which—*

19 “(i) *is sufficiently accurate and com-*
20 *prehensive to appraise the employee of such*
21 *rights and obligations, and*

22 “(ii) *is written in a manner calculated*
23 *to be understood by the average employee el-*
24 *igible to participate.*

25 “(E) *OTHER REQUIREMENTS.*—

1 “(i) *WITHDRAWAL AND VESTING RE-*
2 *STRICTIONS.*—*An arrangement shall not be*
3 *treated as meeting the requirements of sub-*
4 *paragraph (B) or (C) unless the require-*
5 *ments of subparagraphs (B) and (C) of*
6 *paragraph (2) are met with respect to all*
7 *employer contributions (including matching*
8 *contributions).*

9 “(ii) *SOCIAL SECURITY AND SIMILAR*
10 *CONTRIBUTIONS NOT TAKEN INTO AC-*
11 *COUNT.*—*An arrangement shall not be treat-*
12 *ed as meeting the requirements of subpara-*
13 *graph (B) or (C) unless such requirements*
14 *are met without regard to subsection (l),*
15 *and, for purposes of subsection (l), employer*
16 *contributions under subparagraph (B) or*
17 *(C) shall not be taken into account.*

18 “(F) *OTHER PLANS.*—*An arrangement shall*
19 *be treated as meeting the requirements under*
20 *subparagraph (A)(i) if any other plan main-*
21 *tained by the employer meets such requirements*
22 *with respect to employees eligible under the ar-*
23 *rangement.”.*

24 (b) *ALTERNATIVE METHODS OF SATISFYING SECTION*
25 *401(m) NONDISCRIMINATION TESTS.*—*Section 401(m) (re-*

1 *lating to nondiscrimination test for matching contributions*
2 *and employee contributions), as amended by this Act, is*
3 *amended by redesignating paragraph (10) as paragraph*
4 *(11) and by adding after paragraph (9) the following new*
5 *paragraph:*

6 “(11) *ALTERNATIVE METHOD OF SATISFYING*
7 *TESTS.—*

8 “(A) *IN GENERAL.—A defined contribution*
9 *plan shall be treated as meeting the requirements*
10 *of paragraph (2) with respect to matching con-*
11 *tributions if the plan—*

12 “(i) *meets the contribution require-*
13 *ments of subparagraph (B) or (C) of sub-*
14 *section (k)(12),*

15 “(ii) *meets the notice requirements of*
16 *subsection (k)(12)(D), and*

17 “(iii) *meets the requirements of sub-*
18 *paragraph (B).*

19 “(B) *LIMITATION ON MATCHING CONTRIBU-*
20 *TIONS.—The requirements of this subparagraph*
21 *are met if—*

22 “(i) *matching contributions on behalf*
23 *of any employee may not be made with re-*
24 *spect to an employee’s contributions or elec-*

1 *tive deferrals in excess of 6 percent of the*
2 *employee’s compensation,*

3 *“(ii) the level of an employer’s match-*
4 *ing contribution does not increase as an*
5 *employee’s contributions or elective deferrals*
6 *increase, and*

7 *“(iii) the matching contribution with*
8 *respect to any highly compensated employee*
9 *at a specific level of compensation is not*
10 *greater than that with respect to an em-*
11 *ployee who is not a highly compensated em-*
12 *ployee.”.*

13 *(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED*
14 *EMPLOYEE PERCENTAGE.—*

15 *(1) CASH OR DEFERRED ARRANGEMENTS.—*

16 *Clause (ii) of section 401(k)(3)(A) is amended—*

17 *(A) by striking “such year” and inserting*
18 *“the plan year”,*

19 *(B) by striking “for such plan year” and*
20 *inserting “the preceding plan year”, and*

21 *(C) by adding at the end the following new*
22 *sentence: “An arrangement may apply this*
23 *clause by using the plan year rather than the*
24 *preceding plan year if the employer so elects, ex-*

1 *cept that if such an election is made, it may not*
2 *be changed except as provided by the Secretary.”.*

3 (2) *MATCHING AND EMPLOYEE CONTRIBU-*
4 *TIONS.—Section 401(m)(2)(A) is amended—*

5 *(A) by inserting “for such plan year” after*
6 *“highly compensated employee”,*

7 *(B) by inserting “for the preceding plan*
8 *year” after “eligible employees” each place it ap-*
9 *pears in clause (i) and clause (ii), and*

10 *(C) by adding at the end the following flush*
11 *sentence: “This subparagraph may be applied by*
12 *using the plan year rather than the preceding*
13 *plan year if the employer so elects, except that*
14 *if such an election is made, it may not be*
15 *changed except as provided the Secretary.”.*

16 (d) *SPECIAL RULE FOR DETERMINING AVERAGE DE-*
17 *FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—*

18 *(1) Paragraph (3) of section 401(k) is amended*
19 *by adding at the end the following new subparagraph:*

20 *“(E) For purposes of this paragraph, in the*
21 *case of the first plan year of any plan, the*
22 *amount taken into account as the actual deferral*
23 *percentage of nonhighly compensated employees*
24 *for the preceding plan year shall be—*

25 *“(i) 3 percent, or*

1 “(ii) if the employer makes an election
2 under this subclause, the actual deferral
3 percentage of nonhighly compensated em-
4 ployees determined for such first plan
5 year.”.

6 (2) Paragraph (3) of section 401(m) is amended
7 by adding at the end the following: “Rules similar to
8 the rules of subsection (k)(3)(E) shall apply for pur-
9 poses of this subsection.”.

10 (e) *DISTRIBUTION OF EXCESS CONTRIBUTIONS.*—

11 (1) Subparagraph (C) of section 401(k)(8) (relat-
12 ing to arrangement not disqualified if excess contribu-
13 tions distributed) is amended by striking “on the
14 basis of the respective portions of the excess contribu-
15 tions attributable to each of such employees” and in-
16 serting “on the basis of the amount of contributions
17 by, or on behalf of, each of such employees”.

18 (2) Subparagraph (C) of section 401(m)(6) (re-
19 lating to method of distributing excess aggregate con-
20 tributions) is amended by striking “on the basis of the
21 respective portions of such amounts attributable to
22 each of such employees” and inserting “on the basis
23 of the amount of contributions on behalf of, or by,
24 each such employee”.

25 (f) *EFFECTIVE DATES.*—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to years beginning after De-*
3 *cember 31, 1998.*

4 (2) *EXCESS CONTRIBUTIONS.*—*The amendments*
5 *made by subsection (e) shall apply to years beginning*
6 *after December 31, 1995.*

7 ***SEC. 11444. DEFINITION OF COMPENSATION FOR SECTION***
8 ***415 PURPOSES.***

9 (a) *GENERAL RULE.*—*Section 415(c)(3) (defining par-*
10 *ticipant's compensation) is amended by adding at the end*
11 *the following new subparagraph:*

12 “(D) *CERTAIN DEFERRALS INCLUDED.*—*The*
13 *term ‘participant’s compensation’ shall in-*
14 *clude—*

15 “(i) *any elective deferral (as defined in*
16 *section 402(g)(3)), and*

17 “(ii) *any amount which is contributed*
18 *by the employer at the election of the em-*
19 *ployee and which is not includible in the*
20 *gross income of the employee under section*
21 *125 or 457.”.*

22 (b) *CONFORMING AMENDMENTS.*—

23 (1) *Section 414(q)(4), as redesignated by section*
24 *11441, is amended to read as follows:*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to years beginning after December 31,*
3 *1995.*

4 ***SEC. 11452. ELIMINATION OF SPECIAL VESTING RULE FOR***
5 ***MULTIEMPLOYER PLANS.***

6 (a) *IN GENERAL.*—*Paragraph (2) of section 411(a)*
7 *(relating to minimum vesting standards) is amended—*

8 (1) *by striking “subparagraph (A), (B), or (C)”*
9 *and inserting “subparagraph (A) or (B)”;* and

10 (2) *by striking subparagraph (C).*

11 (b) *EFFECTIVE DATE.*—*The amendments made by this*
12 *section shall apply to plan years beginning on or after the*
13 *earlier of—*

14 (1) *the later of—*

15 (A) *January 1, 1996, or*

16 (B) *the date on which the last of the collec-*
17 *tive bargaining agreements pursuant to which*
18 *the plan is maintained terminates (determined*
19 *without regard to any extension thereof after the*
20 *date of the enactment of this Act), or*

21 (2) *January 1, 1998.*

22 *Such amendments shall not apply to any individual who*
23 *does not have more than 1 hour of service under the plan*
24 *on or after the 1st day of the 1st plan year to which such*
25 *amendments apply.*

1 **SEC. 11453. DISTRIBUTIONS UNDER RURAL COOPERATIVE**
2 **PLANS.**

3 (a) *DISTRIBUTIONS FOR HARDSHIP OR AFTER A CER-*
4 *TAIN AGE.*—Section 401(k)(7) is amended by adding at the
5 end the following new subparagraph:

6 “(C) *SPECIAL RULE FOR CERTAIN DIS-*
7 *TRIBUTIONS.*—A rural cooperative plan which
8 includes a qualified cash or deferred arrange-
9 ment shall not be treated as violating the re-
10 quirements of section 401(a) or of paragraph (2)
11 merely by reason of a hardship distribution or a
12 distribution to a participant after attainment of
13 age 59½. For purposes of this section, the term
14 ‘hardship distribution’ means a distribution de-
15 scribed in paragraph (2)(B)(i)(IV) (without re-
16 gard to the limitation of its application to prof-
17 it-sharing or stock bonus plans).”.

18 (b) *PUBLIC UTILITY DISTRICTS.*—Clause (i) of section
19 401(k)(7)(B) (defining rural cooperative) is amended to
20 read as follows:

21 “(i) any organization which—

22 “(I) is engaged primarily in pro-
23 viding electric service on a mutual or
24 cooperative basis, or

25 “(II) is engaged primarily in pro-
26 viding electric service to the public in

1 *its area of service and which is exempt*
2 *from tax under this subtitle or which is*
3 *a State or local government (or an*
4 *agency or instrumentality thereof),*
5 *other than a municipality (or an agen-*
6 *cy or instrumentality thereof).”*

7 *(c) EFFECTIVE DATES.—*

8 *(1) DISTRIBUTIONS.—The amendments made by*
9 *subsection (a) shall apply to distributions after the*
10 *date of the enactment of this Act.*

11 *(2) RURAL COOPERATIVE.—The amendments*
12 *made by subsection (b) shall apply to plan years be-*
13 *ginning after December 31, 1994.*

14 **SEC. 11454. TREATMENT OF GOVERNMENTAL PLANS UNDER**
15 **SECTION 415.**

16 *(a) COMPENSATION LIMIT.—Subsection (b) of section*
17 *415 is amended by adding immediately after paragraph*
18 *(10) the following new paragraph:*

19 *“(11) SPECIAL LIMITATION RULE FOR GOVERN-*
20 *MENTAL PLANS.—In the case of a governmental plan*
21 *(as defined in section 414(d)), subparagraph (B) of*
22 *paragraph (1) shall not apply.”*

23 *(b) TREATMENT OF CERTAIN EXCESS BENEFIT*
24 *PLANS.—*

1 (1) *IN GENERAL.*—Section 415 is amended by
2 adding at the end the following new subsection:

3 “(m) *TREATMENT OF QUALIFIED GOVERNMENTAL EX-*
4 *CESS BENEFIT ARRANGEMENTS.*—

5 “(1) *GOVERNMENTAL PLAN NOT AFFECTED.*—*In*
6 *determining whether a governmental plan (as defined*
7 *in section 414(d)) meets the requirements of this sec-*
8 *tion, benefits provided under a qualified governmental*
9 *excess benefit arrangement shall not be taken into ac-*
10 *count. Income accruing to a governmental plan (or to*
11 *a trust that is maintained solely for the purpose of*
12 *providing benefits under a qualified governmental ex-*
13 *cess benefit arrangement) in respect of a qualified*
14 *governmental excess benefit arrangement shall con-*
15 *stitute income derived from the exercise of an essen-*
16 *tial governmental function upon which such govern-*
17 *mental plan (or trust) shall be exempt from tax under*
18 *section 115.*

19 “(2) *TAXATION OF PARTICIPANT.*—*For purposes*
20 *of this chapter—*

21 “(A) *the taxable year or years for which*
22 *amounts in respect of a qualified governmental*
23 *excess benefit arrangement are includible in*
24 *gross income by a participant, and*

1 “(B) the treatment of such amounts when so
2 includible by the participant,
3 shall be determined as if such qualified governmental
4 excess benefit arrangement were treated as a plan for
5 the deferral of compensation which is maintained by
6 a corporation not exempt from tax under this chapter
7 and which does not meet the requirements for quali-
8 fication under section 401.

9 “(3) QUALIFIED GOVERNMENTAL EXCESS BENE-
10 FIT ARRANGEMENT.—For purposes of this subsection,
11 the term ‘qualified governmental excess benefit ar-
12 rangement’ means a portion of a governmental plan
13 if—

14 “(A) such portion is maintained solely for
15 the purpose of providing to participants in the
16 plan that part of the participant’s annual bene-
17 fit otherwise payable under the terms of the plan
18 that exceeds the limitations on benefits imposed
19 by this section,

20 “(B) under such portion no election is pro-
21 vided at any time to the participant (directly or
22 indirectly) to defer compensation, and

23 “(C) benefits described in subparagraph (A)
24 are not paid from a trust forming a part of such
25 governmental plan unless such trust is main-

1 *tained solely for the purpose of providing such*
2 *benefits.”*

3 (2) *COORDINATION WITH SECTION 457.—Sub-*
4 *section (e) of section 457 is amended by adding at the*
5 *end the following new paragraph:*

6 “(15) *TREATMENT OF QUALIFIED GOVERN-*
7 *MENTAL EXCESS BENEFIT ARRANGEMENTS.—Sub-*
8 *sections (b)(2) and (c)(1) shall not apply to any*
9 *qualified governmental excess benefit arrangement (as*
10 *defined in section 415(m)(3)), and benefits provided*
11 *under such an arrangement shall not be taken into*
12 *account in determining whether any other plan is an*
13 *eligible deferred compensation plan.”*

14 (3) *CONFORMING AMENDMENT.—Paragraph (2)*
15 *of section 457(f) is amended by striking “and” at the*
16 *end of subparagraph (C), by striking the period at the*
17 *end of subparagraph (D) and inserting “, and”, and*
18 *by inserting immediately thereafter the following new*
19 *subparagraph:*

20 “(E) *a qualified governmental excess benefit*
21 *arrangement described in section 415(m).”*

22 (c) *EXEMPTION FOR SURVIVOR AND DISABILITY BENE-*
23 *FITS.—Paragraph (2) of section 415(b) is amended by add-*
24 *ing at the end the following new subparagraph:*

1 “(I) *EXEMPTION FOR SURVIVOR AND DIS-*
2 *ABILITY BENEFITS PROVIDED UNDER GOVERN-*
3 *MENTAL PLANS.*—*Subparagraph (B) of para-*
4 *graph (1), subparagraph (C) of this paragraph,*
5 *and paragraph (5) shall not apply to—*

6 “(i) *income received from a govern-*
7 *mental plan (as defined in section 414(d))*
8 *as a pension, annuity, or similar allowance*
9 *as the result of the recipient becoming dis-*
10 *abled by reason of personal injuries or sick-*
11 *ness, or*

12 “(ii) *amounts received from a govern-*
13 *mental plan by the beneficiaries, survivors,*
14 *or the estate of an employee as the result of*
15 *the death of the employee.”*

16 (d) *REVOCAION OF GRANDFATHER ELECTION.*—

17 (1) *IN GENERAL.*—*Subparagraph (C) of section*
18 *415(b)(10) is amended by adding at the end the fol-*
19 *lowing new clause:*

20 “(ii) *REVOCAION OF ELECTION.*—*An*
21 *election under clause (i) may be revoked not*
22 *later than the last day of the third plan*
23 *year beginning after the date of the enact-*
24 *ment of this clause. The revocation shall*
25 *apply to all plan years to which the election*

1 *applied and to all subsequent plan years.*
2 *Any amount paid by a plan in a taxable*
3 *year ending after the revocation shall be in-*
4 *cludible in income in such taxable year*
5 *under the rules of this chapter in effect for*
6 *such taxable year, except that, for purposes*
7 *of applying the limitations imposed by this*
8 *section, any portion of such amount which*
9 *is attributable to any taxable year during*
10 *which the election was in effect shall be*
11 *treated as received in such taxable year.”*

12 (2) *CONFORMING AMENDMENT.*—Subparagraph
13 (C) of section 415(b)(10) is amended by striking
14 “*This*” and inserting:

15 “(i) *IN GENERAL.*—*This*”.

16 (e) *EFFECTIVE DATE.*—

17 (1) *IN GENERAL.*—The amendments made by
18 subsections (a), (b), and (c) shall apply to years be-
19 ginning after December 31, 1994. The amendments
20 made by subsection (d) shall apply with respect to
21 revocations adopted after the date of the enactment of
22 this Act.

23 (2) *TREATMENT FOR YEARS BEGINNING BEFORE*
24 *DATE OF ENACTMENT.*—Nothing in the amendments
25 made by this section shall be construed to infer that

1 *a governmental plan (as defined in section 414(d) of*
2 *the Internal Revenue Code of 1986) fails to satisfy the*
3 *requirements of section 415 of such Code for any tax-*
4 *able year beginning before the date of the enactment*
5 *of this Act.*

6 **SEC. 11455. UNIFORM RETIREMENT AGE.**

7 *(a) DISCRIMINATION TESTING.—Paragraph (5) of sec-*
8 *tion 401(a) (relating to special rules relating to non-*
9 *discrimination requirements) is amended by adding at the*
10 *end the following new subparagraph:*

11 *“(F) SOCIAL SECURITY RETIREMENT AGE.—*
12 *For purposes of testing for discrimination under*
13 *paragraph (4)—*

14 *“(i) the social security retirement age*
15 *(as defined in section 415(b)(8)) shall be*
16 *treated as a uniform retirement age, and*

17 *“(ii) subsidized early retirement bene-*
18 *fits and joint and survivor annuities shall*
19 *not be treated as being unavailable to em-*
20 *ployees on the same terms merely because*
21 *such benefits or annuities are based in*
22 *whole or in part on an employee’s social se-*
23 *curity retirement age (as so defined).”*

1 *pant under the plan shall not be treated as made*
2 *available merely because the participant may*
3 *elect to receive such amount (or the plan may*
4 *distribute such amount without the participant’s*
5 *consent) if—*

6 *“(i) such amount does not exceed*
7 *\$3,500, and*

8 *“(ii) such amount may be distributed*
9 *only if—*

10 *“(I) no amount has been deferred*
11 *under the plan with respect to such*
12 *participant during the 2-year period*
13 *ending on the date of the distribution,*
14 *and*

15 *“(II) there has been no prior dis-*
16 *tribution under the plan to such par-*
17 *ticipant to which this subparagraph*
18 *applied.*

19 *A plan shall not be treated as failing to meet the*
20 *distribution requirements of subsection (d) by*
21 *reason of a distribution to which this subpara-*
22 *graph applies.*

23 *“(B) ELECTION TO DEFER COMMENCEMENT*
24 *OF DISTRIBUTIONS.—The total amount payable*
25 *to a participant under the plan shall not be*

1 *treated as made available merely because the*
2 *participant may elect to defer commencement of*
3 *distributions under the plan if—*

4 “(i) *such election is made after*
5 *amounts may be available under the plan*
6 *in accordance with subsection (d)(1)(A) and*
7 *before commencement of such distributions,*
8 *and*

9 “(ii) *the participant may make only 1*
10 *such election.*”.

11 ***(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-***
12 ***FERRAL AMOUNT.—****Subsection (e) of section 457, as amend-*
13 *ed by section 11454(b)(2) (relating to governmental plans),*
14 *is amended by adding at the end the following new para-*
15 *graph:*

16 “(16) ***COST-OF-LIVING ADJUSTMENT OF MAXIMUM***
17 ***DEFERRAL AMOUNT.—****The Secretary shall adjust the*
18 *\$7,500 amount specified in subsections (b)(2) and*
19 *(c)(1) at the same time and in the same manner as*
20 *under section 415(d), except that the base period shall*
21 *be the calendar quarter ending September 30, 1994,*
22 *and any increase under this paragraph which is not*
23 *a multiple of \$500 shall be rounded to the next lowest*
24 *multiple of \$500.*”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 31, 1995.*

4 ***SEC. 11458. TRUST REQUIREMENT FOR DEFERRED COM-***
 5 ***PENSATION PLANS OF STATE AND LOCAL***
 6 ***GOVERNMENTS.***

7 (a) *IN GENERAL.*—*Section 457 is amended by adding*
 8 *at the end the following new subsection:*

9 “(g) *GOVERNMENTAL PLANS MUST MAINTAIN SET*
 10 *ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.*—

11 “(1) *IN GENERAL.*—*A plan maintained by an el-*
 12 *igible employer described in subsection (e)(1)(A) shall*
 13 *not be treated as an eligible deferred compensation*
 14 *plan unless all assets and income of the plan de-*
 15 *scribed in subsection (b)(6) are held in trust for the*
 16 *exclusive benefit of participants and their bene-*
 17 *ficiaries.*

18 “(2) *TAXABILITY OF TRUSTS AND PARTICI-*
 19 *PANTS.*—*For purposes of this title—*

20 “(A) *a trust described in paragraph (1)*
 21 *shall be treated as an organization exempt from*
 22 *taxation under section 501(a), and*

23 “(B) *notwithstanding any other provision*
 24 *of this title, amounts in the trust shall be includ-*
 25 *ible in the gross income of participants and*

1 *beneficiaries only to the extent, and at the time,*
2 *provided in this section.*

3 “(3) *CUSTODIAL ACCOUNTS AND CONTRACTS.*—
4 *For purposes of this subsection, custodial accounts*
5 *and contracts described in section 401(f) shall be*
6 *treated as trusts under rules similar to the rules*
7 *under section 401(f).”*

8 *(b) CONFORMING AMENDMENT.*—*Paragraph (6) of sec-*
9 *tion 457(b) is amended by inserting “except as provided*
10 *in subsection (g),” before “which provides that”.*

11 *(c) EFFECTIVE DATES.*—

12 *(1) IN GENERAL.*—*Except as provided in para-*
13 *graph (2), the amendments made by this section shall*
14 *apply to assets and income described in section*
15 *457(b)(6) of the Internal Revenue Code of 1986 held*
16 *by a plan on and after the date of the enactment of*
17 *this Act.*

18 *(2) TRANSITION RULE.*—*In the case of assets and*
19 *income described in paragraph (1) held by a plan be-*
20 *fore the first day of the first calendar quarter begin-*
21 *ning after the close of the first regular session of the*
22 *State legislature of the State in which the govern-*
23 *mental entity maintaining the plan is located begin-*
24 *ning after the date of the enactment of this Act, a*
25 *trust need not be established by reason of the amend-*

1 that the modification made by subsection (b)
2 shall be taken into account), and the provisions
3 of the plan as in effect on December 7, 1994, but
4 only if such provisions of the plan meet the re-
5 quirements of such section (as so in effect).”

6 (b) *MODIFICATION OF CERTAIN ASSUMPTIONS FOR AD-*
7 *JUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR*
8 *EARLY RETIREES.*—Subparagraph (E) of section 415(b)(2)
9 (relating to limitation on certain assumptions) is amend-
10 ed—

11 (1) by striking “Except as provided in clause
12 (ii), for purposes of adjusting any benefit or limita-
13 tion under subparagraph (B) or (C),” in clause (i)
14 and inserting “For purposes of adjusting any limita-
15 tion under subparagraph (C) and, except as provided
16 in clause (ii), for purposes of adjusting any benefit
17 under subparagraph (B),”, and

18 (2) by striking “For purposes of adjusting the
19 benefit or limitation of any form of benefit subject to
20 section 417(e)(3),” in clause (i) and inserting “For
21 purposes of adjusting any benefit under subparagraph
22 (B) for any form of benefit subject to section
23 417(e)(3),”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect as if included in the provisions of*
3 *section 767 of the Uruguay Round Agreements Act.*

4 (d) *TRANSITIONAL RULE.*—*In the case of a plan that*
5 *was adopted and in effect before December 8, 1994, if—*

6 (1) *a plan amendment was adopted or made ef-*
7 *fective on or before the date of the enactment of this*
8 *Act applying the amendments made by section 767(b)*
9 *of the Uruguay Round Agreements Act, and*

10 (2) *within 1 year after the date of the enactment*
11 *of this Act, a plan amendment is adopted which re-*
12 *peals the amendment referred to in paragraph (1),*

13 *the amendment referred to in paragraph (1) shall not be*
14 *taken into account in applying section 767(d)(3)(A) of the*
15 *Uruguay Round Agreements Act, as amended by subsection*
16 *(a).*

17 **SEC. 11460. MODIFICATIONS OF SECTION 403(b).**

18 (a) *MULTIPLE SALARY REDUCTION AGREEMENTS*
19 *PERMITTED.*—

20 (1) *GENERAL RULE.*—*For purposes of section*
21 *403(b) of the Internal Revenue Code of 1986, the fre-*
22 *quency that an employee is permitted to enter into a*
23 *salary reduction agreement, the salary to which such*
24 *an agreement may apply, and the ability to revoke*
25 *such an agreement shall be determined under the rules*

1 *applicable to cash or deferred elections under section*
2 *401(k) of such Code.*

3 (2) *EFFECTIVE DATE.*—*This subsection shall*
4 *apply to taxable years beginning after December 31,*
5 *1995.*

6 (b) *TREATMENT OF INDIAN TRIBAL GOVERNMENTS.*—

7 (1) *IN GENERAL.*—*In the case of any contract*
8 *purchased in a plan year beginning before January*
9 *1, 1995, section 403(b) of the Internal Revenue Code*
10 *of 1986 shall be applied as if any reference to an em-*
11 *ployer described in section 501(c)(3) of the Internal*
12 *Revenue Code of 1986 which is exempt from tax*
13 *under section 501 of such Code included a reference*
14 *to an employer which is an Indian tribal government*
15 *(as defined by section 7701(a)(40) of such Code), a*
16 *subdivision of an Indian tribal government (deter-*
17 *mined in accordance with section 7871(d) of such*
18 *Code), an agency or instrumentality of an Indian*
19 *tribal government or subdivision thereof, or a cor-*
20 *poration chartered under Federal, State, or tribal law*
21 *which is owned in whole or in part by any of the*
22 *foregoing.*

23 (2) *ROLLOVERS.*—*Solely for purposes of apply-*
24 *ing section 403(b)(8) of such Code to a contract to*
25 *which paragraph (1) applies, a qualified cash or de-*

1 ferred arrangement under section 401(k) of such Code
2 shall be treated as if it were a plan or contract de-
3 scribed in clause (ii) of section 403(b)(8)(A) of such
4 Code.

5 (c) *ELECTIVE DEFERRALS.*—

6 (1) *IN GENERAL.*—Subparagraph (E) of section
7 403(b)(1) is amended to read as follows:

8 “(E) in the case of a contract purchased
9 under a salary reduction agreement, the contract
10 meets the requirements of section 401(a)(30),”.

11 (2) *EFFECTIVE DATE.*—The amendment made by
12 this subsection shall apply to years beginning after
13 December 31, 1995.

14 **SEC. 11461. WAIVER OF MINIMUM PERIOD FOR JOINT AND**
15 **SURVIVOR ANNUITY EXPLANATION BEFORE**
16 **ANNUITY STARTING DATE.**

17 (a) *GENERAL RULE.*—For purposes of section
18 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating
19 to plan to provide written explanations), the minimum pe-
20 riod prescribed by the Secretary of the Treasury between
21 the date that the explanation referred to in such section is
22 provided and the annuity starting date shall not apply if
23 waived by the participant and, if applicable, the partici-
24 pant’s spouse.

1 (b) *EFFECTIVE DATE.*—Subsection (a) shall apply to
2 plan years beginning after December 31, 1995.

3 **SEC. 11462. REPEAL OF LIMITATION IN CASE OF DEFINED**
4 **BENEFIT PLAN AND DEFINED CONTRIBUTION**
5 **PLAN FOR SAME EMPLOYEE; EXCESS DIS-**
6 **TRIBUTIONS.**

7 (a) *IN GENERAL.*—Section 415(e) is repealed.

8 (b) *EXCESS DISTRIBUTIONS.*—Section 4980A is
9 amended by adding at the end the following new subsection:

10 “(g) *LIMITATION ON APPLICATION.*—This section shall
11 not apply to distributions during years beginning after De-
12 cember 31, 1995, and before January 1, 1999, and such dis-
13 tributions shall be treated as made first from amounts not
14 described in subsection (f).”

15 (c) *CONFORMING AMENDMENTS.*—

16 (1) Subparagraph (B) of section 415(b)(5) is
17 amended by striking “and subsection (e)”.

18 (2) Paragraph (1) of section 415(f) is amended
19 by striking “subsections (b), (c), and (e)” and insert-
20 ing “subsections (b) and (c)”.

21 (3) Subsection (g) of section 415 is amended by
22 striking “subsections (e) and (f)” in the last sentence
23 and inserting “subsection (f)”.

24 (4) Clause (i) of section 415(k)(2)(A) is amended
25 to read as follows:

1 “(i) any contribution made directly by
2 an employee under such an arrangement
3 shall not be treated as an annual addition
4 for purposes of subsection (c), and”.

5 (5) Clause (ii) of section 415(k)(2)(A) is amend-
6 ed by striking “subsections (c) and (e)” and inserting
7 “subsection (c)”.

8 (6) Section 416 is amended by striking sub-
9 section (h).

10 (d) *EFFECTIVE DATE.*—

11 (1) *IN GENERAL.*—Except as provided in para-
12 graph (2), the amendments made by this section shall
13 apply to limitation years beginning after December
14 31, 1998.

15 (2) *EXCESS DISTRIBUTIONS.*—The amendment
16 made by subsection (b) shall apply to years beginning
17 after December 31, 1995.

18 **SEC. 11463. TAX ON PROHIBITED TRANSACTIONS.**

19 (a) *IN GENERAL.*—Section 4975(a) is amended by
20 striking “5 percent” and inserting “10 percent”.

21 (b) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply to prohibited transactions occurring
23 after December 31, 1995.

1 **SEC. 11464. TREATMENT OF LEASED EMPLOYEES.**

2 (a) *GENERAL RULE.*—Subparagraph (C) of section
3 414(n)(2) (defining leased employee) is amended to read as
4 follows:

5 “(C) such services are performed under pri-
6 mary direction or control by the recipient.”.

7 (b) *EFFECTIVE DATE.*—The amendment made by sub-
8 section (a) shall apply to years beginning after December
9 31, 1995, but shall not apply to any relationship deter-
10 mined under an Internal Revenue Service ruling issued be-
11 fore the date of the enactment of this Act pursuant to section
12 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in
13 effect on the day before such date) not to involve a leased
14 employee.

15 **CHAPTER 3—TREATMENT OF LARGE**
16 **PARTNERSHIPS**

17 **SEC. 11471. SIMPLIFIED FLOW-THROUGH FOR ELECTING**
18 **LARGE PARTNERSHIPS.**

19 (a) *GENERAL RULE.*—Subchapter K (relating to part-
20 ners and partnerships) is amended by adding at the end
21 the following new part:

22 **“PART IV—SPECIAL RULES FOR ELECTING LARGE**
23 **PARTNERSHIPS**

“Sec. 771. Application of subchapter to electing large partnerships.

“Sec. 772. Simplified flow-through.

“Sec. 773. Computations at partnership level.

“Sec. 774. Other modifications.

“Sec. 775. Electing large partnership defined.

“Sec. 776. Special rules for partnerships holding oil and gas properties.

“Sec. 777. Regulations.

1 **“SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING**
 2 **LARGE PARTNERSHIPS.**

3 *“The preceding provisions of this subchapter to the ex-*
 4 *tent inconsistent with the provisions of this part shall not*
 5 *apply to an electing large partnership and its partners.*

6 **“SEC. 772. SIMPLIFIED FLOW-THROUGH.**

7 *“(a) GENERAL RULE.—In determining the income tax*
 8 *of a partner of an electing large partnership, such partner*
 9 *shall take into account separately such partner’s distribu-*
 10 *tive share of the partnership’s—*

11 *“(1) taxable income or loss from passive loss lim-*
 12 *itation activities,*

13 *“(2) taxable income or loss from other activities,*

14 *“(3) net capital gain (or net capital loss)—*

15 *“(A) to the extent allocable to passive loss*
 16 *limitation activities, and*

17 *“(B) to the extent allocable to other activi-*
 18 *ties,*

19 *“(4) tax-exempt interest,*

20 *“(5) applicable net AMT adjustment separately*
 21 *computed for—*

22 *“(A) passive loss limitation activities, and*

23 *“(B) other activities,*

24 *“(6) general credits,*

1 “(7) *low-income housing credit determined under*
2 *section 42,*

3 “(8) *rehabilitation credit determined under sec-*
4 *tion 47,*

5 “(9) *foreign income taxes,*

6 “(10) *the credit allowable under section 29, and*

7 “(11) *other items to the extent that the Secretary*
8 *determines that the separate treatment of such items*
9 *is appropriate.*

10 “(b) *SEPARATE COMPUTATIONS.—In determining the*
11 *amounts required under subsection (a) to be separately*
12 *taken into account by any partner, this section and section*
13 *773 shall be applied separately with respect to such partner*
14 *by taking into account such partner’s distributive share of*
15 *the items of income, gain, loss, deduction, or credit of the*
16 *partnership.*

17 “(c) *TREATMENT AT PARTNER LEVEL.—*

18 “(1) *IN GENERAL.—Except as provided in this*
19 *subsection, rules similar to the rules of section 702(b)*
20 *shall apply to any partner’s distributive share of the*
21 *amounts referred to in subsection (a).*

22 “(2) *INCOME OR LOSS FROM PASSIVE LOSS LIM-*
23 *TATION ACTIVITIES.—For purposes of this chapter,*
24 *any partner’s distributive share of any income or loss*
25 *described in subsection (a)(1) shall be treated as an*

1 *item of income or loss (as the case may be) from the*
2 *conduct of a trade or business which is a single pas-*
3 *sive activity (as defined in section 469). A similar*
4 *rule shall apply to a partner's distributive share of*
5 *amounts referred to in paragraphs (3)(A) and (5)(A)*
6 *of subsection (a).*

7 *“(3) INCOME OR LOSS FROM OTHER ACTIVI-*
8 *TIES.—*

9 *“(A) IN GENERAL.—For purposes of this*
10 *chapter, any partner's distributive share of any*
11 *income or loss described in subsection (a)(2)*
12 *shall be treated as an item of income or expense*
13 *(as the case may be) with respect to property*
14 *held for investment.*

15 *“(B) DEDUCTIONS FOR LOSS NOT SUBJECT*
16 *TO SECTION 67.—The deduction under section*
17 *212 for any loss described in subparagraph (A)*
18 *shall not be treated as a miscellaneous itemized*
19 *deduction for purposes of section 67.*

20 *“(4) TREATMENT OF NET CAPITAL GAIN OR*
21 *LOSS.—For purposes of this chapter, any partner's*
22 *distributive share of any gain or loss described in*
23 *subsection (a)(3) shall be treated as a long-term cap-*
24 *ital gain or loss, as the case may be.*

1 “(5) *MINIMUM TAX TREATMENT.*—*In determin-*
2 *ing the alternative minimum taxable income of any*
3 *partner, such partner’s distributive share of any ap-*
4 *licable net AMT adjustment shall be taken into ac-*
5 *count in lieu of making the separate adjustments pro-*
6 *vided in sections 56, 57, and 58 with respect to the*
7 *items of the partnership. Except as provided in regu-*
8 *lations, the applicable net AMT adjustment shall be*
9 *treated, for purposes of section 53, as an adjustment*
10 *or item of tax preference not specified in section*
11 *53(d)(1)(B)(ii).*

12 “(6) *GENERAL CREDITS.*—*A partner’s distribu-*
13 *tive share of the amount referred to in paragraph (6)*
14 *of subsection (a) shall be taken into account as a cur-*
15 *rent year business credit.*

16 “(d) *OPERATING RULES.*—*For purposes of this sec-*
17 *tion—*

18 “(1) *PASSIVE LOSS LIMITATION ACTIVITY.*—*The*
19 *term ‘passive loss limitation activity’ means—*

20 “(A) *any activity which involves the con-*
21 *duct of a trade or business, and*

22 “(B) *any rental activity.*

23 *For purposes of the preceding sentence, the term*
24 *‘trade or business’ includes any activity treated as a*

1 *trade or business under paragraph (5) or (6) of sec-*
2 *tion 469(c).*

3 “(2) *TAX-EXEMPT INTEREST.*—*The term ‘tax-ex-*
4 *empt interest’ means interest excludable from gross*
5 *income under section 103.*

6 “(3) *APPLICABLE NET AMT ADJUSTMENT.*—

7 “(A) *IN GENERAL.*—*The applicable net*
8 *AMT adjustment is—*

9 “(i) *with respect to taxpayers other*
10 *than corporations, the net adjustment deter-*
11 *mined by using the adjustments applicable*
12 *to individuals, and*

13 “(ii) *with respect to corporations, the*
14 *net adjustment determined by using the ad-*
15 *justments applicable to corporations.*

16 “(B) *NET ADJUSTMENT.*—*The term ‘net ad-*
17 *justment’ means the net adjustment in the items*
18 *attributable to passive loss activities or other ac-*
19 *tivities (as the case may be) which would result*
20 *if such items were determined with the adjust-*
21 *ments of sections 56, 57, and 58.*

22 “(4) *TREATMENT OF CERTAIN SEPARATELY*
23 *STATED ITEMS.*—

24 “(A) *EXCLUSION FOR CERTAIN PUR-*
25 *POSES.*—*In determining the amounts referred to*

1 *in paragraphs (1) and (2) of subsection (a), any*
2 *net capital gain or net capital loss (as the case*
3 *may be), and any item referred to in subsection*
4 *(a)(11), shall be excluded.*

5 “(B) *ALLOCATION RULES.*—*The net capital*
6 *gain shall be treated—*

7 “(i) *as allocable to passive loss limita-*
8 *tion activities to the extent the net capital*
9 *gain does not exceed the net capital gain de-*
10 *termined by only taking into account gains*
11 *and losses from sales and exchanges of prop-*
12 *erty used in connection with such activities,*
13 *and*

14 “(ii) *as allocable to other activities to*
15 *the extent such gain exceeds the amount al-*
16 *located under clause (i).*

17 *A similar rule shall apply for purposes of allo-*
18 *cating any net capital loss.*

19 “(C) *NET CAPITAL LOSS.*—*The term ‘net*
20 *capital loss’ means the excess of the losses from*
21 *sales or exchanges of capital assets over the gains*
22 *from sales or exchange of capital assets.*

23 “(5) *GENERAL CREDITS.*—*The term ‘general*
24 *credits’ means any credit other than the low-income*

1 *housing credit, the rehabilitation credit, the foreign*
2 *tax credit, and the credit allowable under section 29.*

3 “(6) *FOREIGN INCOME TAXES.*—*The term ‘for-*
4 *foreign income taxes’ means taxes described in section*
5 *901 which are paid or accrued to foreign countries*
6 *and to possessions of the United States.*

7 “(e) *SPECIAL RULE FOR UNRELATED BUSINESS*
8 *TAX.*—*In the case of a partner which is an organization*
9 *subject to tax under section 511, such partner’s distributive*
10 *share of any items shall be taken into account separately*
11 *to the extent necessary to comply with the provisions of sec-*
12 *tion 512(c)(1).*

13 “(f) *SPECIAL RULES FOR APPLYING PASSIVE LOSS*
14 *LIMITATIONS.*—*If any person holds an interest in an elect-*
15 *ing large partnership other than as a limited partner—*

16 “(1) *paragraph (2) of subsection (c) shall not*
17 *apply to such partner, and*

18 “(2) *such partner’s distributive share of the part-*
19 *nership items allocable to passive loss limitation ac-*
20 *tivities shall be taken into account separately to the*
21 *extent necessary to comply with the provisions of sec-*
22 *tion 469.*

23 *The preceding sentence shall not apply to any items alloca-*
24 *ble to an interest held as a limited partner.*

1 **“SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.**

2 “(a) *GENERAL RULE.*—

3 “(1) *TAXABLE INCOME.*—*The taxable income of*
4 *an electing large partnership shall be computed in the*
5 *same manner as in the case of an individual except*
6 *that—*

7 “(A) *the items described in section 772(a)*
8 *shall be separately stated, and*

9 “(B) *the modifications of subsection (b)*
10 *shall apply.*

11 “(2) *ELECTIONS.*—*All elections affecting the*
12 *computation of the taxable income of an electing large*
13 *partnership or the computation of any credit of an*
14 *electing large partnership shall be made by the part-*
15 *nership; except that the election under section 901,*
16 *and any election under section 108, shall be made by*
17 *each partner separately.*

18 “(3) *LIMITATIONS, ETC.*—

19 “(A) *IN GENERAL.*—*Except as provided in*
20 *subparagraph (B), all limitations and other pro-*
21 *visions affecting the computation of the taxable*
22 *income of an electing large partnership or the*
23 *computation of any credit of an electing large*
24 *partnership shall be applied at the partnership*
25 *level (and not at the partner level).*

1 “(B) *CERTAIN LIMITATIONS APPLIED AT*
2 *PARTNER LEVEL.—The following provisions shall*
3 *be applied at the partner level (and not at the*
4 *partnership level):*

5 “(i) *Section 68 (relating to overall lim-*
6 *itation on itemized deductions).*

7 “(ii) *Sections 49 and 465 (relating to*
8 *at risk limitations).*

9 “(iii) *Section 469 (relating to limita-*
10 *tion on passive activity losses and credits).*

11 “(iv) *Any other provision specified in*
12 *regulations.*

13 “(4) *COORDINATION WITH OTHER PROVISIONS.—*
14 *Paragraphs (2) and (3) shall apply notwithstanding*
15 *any other provision of this chapter other than this*
16 *part.*

17 “(b) *MODIFICATIONS TO DETERMINATION OF TAXABLE*
18 *INCOME.—In determining the taxable income of an electing*
19 *large partnership—*

20 “(1) *CERTAIN DEDUCTIONS NOT ALLOWED.—The*
21 *following deductions shall not be allowed:*

22 “(A) *The deduction for personal exemptions*
23 *provided in section 151.*

24 “(B) *The net operating loss deduction pro-*
25 *vided in section 172.*

1 “(C) *The additional itemized deductions for*
2 *individuals provided in part VII of subchapter B*
3 *(other than section 212 thereof).*

4 “(2) *CHARITABLE DEDUCTIONS.—In determining*
5 *the amount allowable under section 170, the limita-*
6 *tion of section 170(b)(2) shall apply.*

7 “(3) *COORDINATION WITH SECTION 67.—In lieu*
8 *of applying section 67, 70 percent of the amount of*
9 *the miscellaneous itemized deductions shall be dis-*
10 *allowed.*

11 “(c) *SPECIAL RULES FOR INCOME FROM DISCHARGE*
12 *OF INDEBTEDNESS.—If an electing large partnership has*
13 *income from the discharge of any indebtedness—*

14 “(1) *such income shall be excluded in determin-*
15 *ing the amounts referred to in section 772(a), and*

16 “(2) *in determining the income tax of any part-*
17 *ner of such partnership—*

18 “(A) *such income shall be treated as an*
19 *item required to be separately taken into account*
20 *under section 772(a), and*

21 “(B) *the provisions of section 108 shall be*
22 *applied without regard to this part.*

1 **“SEC. 774. OTHER MODIFICATIONS.**

2 “(a) *TREATMENT OF CERTAIN OPTIONAL ADJUST-*
3 *MENTS, ETC.—In the case of an electing large partner-*
4 *ship—*

5 “(1) *computations under section 773 shall be*
6 *made without regard to any adjustment under section*
7 *743(b) or 108(b), but*

8 “(2) *a partner’s distributive share of any*
9 *amount referred to in section 772(a) shall be appro-*
10 *priately adjusted to take into account any adjustment*
11 *under section 743(b) or 108(b) with respect to such*
12 *partner.*

13 “(b) *CREDIT RECAPTURE DETERMINED AT PARTNER-*
14 *SHIP LEVEL.—*

15 “(1) *IN GENERAL.—In the case of an electing*
16 *large partnership—*

17 “(A) *any credit recapture shall be taken*
18 *into account by the partnership, and*

19 “(B) *the amount of such recapture shall be*
20 *determined as if the credit with respect to which*
21 *the recapture is made had been fully utilized to*
22 *reduce tax.*

23 “(2) *METHOD OF TAKING RECAPTURE INTO AC-*
24 *COUNT.—An electing large partnership shall take into*
25 *account a credit recapture by reducing the amount of*
26 *the appropriate current year credit to the extent*

1 *thereof, and if such recapture exceeds the amount of*
2 *such current year credit, the partnership shall be lia-*
3 *ble to pay such excess.*

4 “(3) *DISPOSITIONS NOT TO TRIGGER RECAP-*
5 *TURE.—No credit recapture shall be required by rea-*
6 *son of any transfer of an interest in an electing large*
7 *partnership.*

8 “(4) *CREDIT RECAPTURE.—For purposes of this*
9 *subsection, the term ‘credit recapture’ means any in-*
10 *crease in tax under section 42(j) or 50(a).*

11 “(c) *PARTNERSHIP NOT TERMINATED BY REASON OF*
12 *CHANGE IN OWNERSHIP.—Subparagraph (B) of section*
13 *708(b)(1) shall not apply to an electing large partnership.*

14 “(d) *PARTNERSHIP ENTITLED TO CERTAIN CRED-*
15 *ITS.—The following shall be allowed to an electing large*
16 *partnership and shall not be taken into account by the part-*
17 *ners of such partnership:*

18 “(1) *The credit provided by section 34.*

19 “(2) *Any credit or refund under section*
20 *852(b)(3)(D).*

21 “(e) *TREATMENT OF REMIC RESIDUALS.—For pur-*
22 *poses of applying section 860E(e)(6) to any electing large*
23 *partnership—*

24 “(1) *all interests in such partnership shall be*
25 *treated as held by disqualified organizations,*

1 “(2) *in lieu of applying subparagraph (C) of sec-*
2 *tion 860E(e)(6), the amount subject to tax under sec-*
3 *tion 860E(e)(6) shall be excluded from the gross in-*
4 *come of such partnership, and*

5 “(3) *subparagraph (D) of section 860E(e)(6)*
6 *shall not apply.*

7 “(f) *SPECIAL RULES FOR APPLYING CERTAIN IN-*
8 *STALLMENT SALE RULES.—In the case of an electing large*
9 *partnership—*

10 “(1) *the provisions of sections 453(l)(3) and*
11 *453A shall be applied at the partnership level, and*

12 “(2) *in determining the amount of interest pay-*
13 *able under such sections, such partnership shall be*
14 *treated as subject to tax under this chapter at the*
15 *highest rate of tax in effect under section 1 or 11.*

16 **“SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.**

17 “(a) *GENERAL RULE.—For purposes of this part—*

18 “(1) *IN GENERAL.—The term ‘electing large*
19 *partnership’ means, with respect to any partnership*
20 *taxable year, any partnership if—*

21 “(A) *the number of persons who were part-*
22 *ners in such partnership in the preceding part-*
23 *nership taxable year equaled or exceeded 100,*
24 *and*

1 “(B) such partnership elects the application
2 of this part.

3 To the extent provided in regulations, a partnership
4 shall cease to be treated as an electing large partner-
5 ship for any partnership taxable year if in such tax-
6 able year fewer than 100 persons were partners in
7 such partnership.

8 “(2) *ELECTION.*—The election under this sub-
9 section shall apply to the taxable year for which made
10 and all subsequent taxable years unless revoked with
11 the consent of the Secretary.

12 “(b) *SPECIAL RULES FOR CERTAIN SERVICE PART-*
13 *NERSHIPS.*—

14 “(1) *CERTAIN PARTNERS NOT COUNTED.*—For
15 purposes of this section, the term ‘partner’ does not
16 include any individual performing substantial serv-
17 ices in connection with the activities of the partner-
18 ship and holding an interest in such partnership, or
19 an individual who formerly performed substantial
20 services in connection with such activities and who
21 held an interest in such partnership at the time the
22 individual performed such services.

23 “(2) *EXCLUSION.*—For purposes of this part, an
24 election under subsection (a) shall not be effective

1 *with respect to any partnership if substantially all*
2 *the partners of such partnership—*

3 “(A) *are individuals performing substantial*
4 *services in connection with the activities of such*
5 *partnership or are personal service corporations*
6 *(as defined in section 269A(b)) the owner-em-*
7 *ployees (as defined in section 269A(b)) of which*
8 *perform such substantial services,*

9 “(B) *are retired partners who had per-*
10 *formed such substantial services, or*

11 “(C) *are spouses of partners who are per-*
12 *forming (or had previously performed) such sub-*
13 *stantial services.*

14 “(3) *SPECIAL RULE FOR LOWER TIER PARTNER-*
15 *SHIPS.—For purposes of this subsection, the activities*
16 *of a partnership shall include the activities of any*
17 *other partnership in which the partnership owns di-*
18 *rectly an interest in the capital and profits of at least*
19 *80 percent.*

20 “(c) *EXCLUSION OF COMMODITY POOLS.—For pur-*
21 *poses of this part, an election under subsection (a) shall*
22 *not be effective with respect to any partnership the prin-*
23 *cipal activity of which is the buying and selling of commod-*
24 *ities (not described in section 1221(1)), or options, futures,*
25 *or forwards with respect to such commodities.*

1 “(d) *SECRETARY MAY RELY ON TREATMENT ON RE-*
2 *TURN.—If, on the partnership return of any partnership,*
3 *such partnership is treated as an electing large partnership,*
4 *such treatment shall be binding on such partnership and*
5 *all partners of such partnership but not on the Secretary.*

6 **“SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING**
7 **OIL AND GAS PROPERTIES.**

8 “(a) *EXCEPTION FOR PARTNERSHIPS HOLDING SIG-*
9 *NIFICANT OIL AND GAS PROPERTIES.—*

10 “(1) *IN GENERAL.—For purposes of this part, an*
11 *election under section 775(a) shall not be effective*
12 *with respect to any partnership if the average per-*
13 *centage of assets (by value) held by such partnership*
14 *during the taxable year which are oil or gas prop-*
15 *erties is at least 25 percent. For purposes of the pre-*
16 *ceding sentence, any interest held by a partnership in*
17 *another partnership shall be disregarded, except that*
18 *the partnership shall be treated as holding its propor-*
19 *tionate share of the assets of such other partnership.*

20 “(2) *ELECTION TO WAIVE EXCEPTION.—Any*
21 *partnership may elect to have paragraph (1) not*
22 *apply. Such an election shall apply to the partner-*
23 *ship taxable year for which made and all subsequent*
24 *partnership taxable years unless revoked with the con-*
25 *sent of the Secretary.*

1 “(b) *SPECIAL RULES WHERE PART APPLIES.*—

2 “(1) *COMPUTATION OF PERCENTAGE DEPLE-*
3 *TION.*—*In the case of an electing large partnership,*
4 *except as provided in paragraph (2)—*

5 “(A) *the allowance for depletion under sec-*
6 *tion 611 with respect to any partnership oil or*
7 *gas property shall be computed at the partner-*
8 *ship level without regard to any provision of sec-*
9 *tion 613A requiring such allowance to be com-*
10 *puted separately by each partner,*

11 “(B) *such allowance shall be determined*
12 *without regard to the provisions of section*
13 *613A(c) limiting the amount of production for*
14 *which percentage depletion is allowable and*
15 *without regard to paragraph (1) of section*
16 *613A(d), and*

17 “(C) *paragraph (3) of section 705(a) shall*
18 *not apply.*

19 “(2) *TREATMENT OF CERTAIN PARTNERS.*—

20 “(A) *IN GENERAL.*—*In the case of a dis-*
21 *qualified person, the treatment under this chap-*
22 *ter of such person’s distributive share of any*
23 *item of income, gain, loss, deduction, or credit*
24 *attributable to any partnership oil or gas prop-*
25 *erty shall be determined without regard to this*

1 *part. Such person’s distributive share of any*
2 *such items shall be excluded for purposes of mak-*
3 *ing determinations under sections 772 and 773.*

4 “(B) *DISQUALIFIED PERSON.*—*For purposes*
5 *of subparagraph (A), the term ‘disqualified per-*
6 *son’ means, with respect to any partnership tax-*
7 *able year—*

8 “(i) *any person referred to in para-*
9 *graph (2) or (4) of section 613A(d) for such*
10 *person’s taxable year in which such part-*
11 *nership taxable year ends, and*

12 “(ii) *any other person if such person’s*
13 *average daily production of domestic crude*
14 *oil and natural gas for such person’s tax-*
15 *able year in which such partnership taxable*
16 *year ends exceeds 500 barrels.*

17 “(C) *AVERAGE DAILY PRODUCTION.*—*For*
18 *purposes of subparagraph (B), a person’s average*
19 *daily production of domestic crude oil and natu-*
20 *ral gas for any taxable year shall be computed*
21 *as provided in section 613A(c)(2)—*

22 “(i) *by taking into account all produc-*
23 *tion of domestic crude oil and natural gas*
24 *(including such person’s proportionate share*
25 *of any production of a partnership),*

1 “(ii) by treating 6,000 cubic feet of
2 natural gas as a barrel of crude oil, and

3 “(iii) by treating as 1 person all per-
4 sons treated as 1 taxpayer under section
5 613A(c)(8) or among whom allocations are
6 required under such section.

7 **“SEC. 777. REGULATIONS.**

8 *“The Secretary shall prescribe such regulations as may
9 be appropriate to carry out the purposes of this part.”*

10 (b) *CLERICAL AMENDMENT.*—The table of parts for
11 subchapter K of chapter 1 is amended by adding at the end
12 the following new item:

“Part IV. Special rules for electing large partnerships.”

13 (c) *EFFECTIVE DATE.*—The amendments made by this
14 section shall apply to partnership taxable years beginning
15 after December 31, 1995.

16 **SEC. 11472. RETURNS MAY BE REQUIRED ON MAGNETIC**
17 **MEDIA.**

18 (a) *IN GENERAL.*—Paragraph (2) of section 6011(e)
19 (relating to returns on magnetic media) is amended by add-
20 ing at the end the following new sentence:

21 *“Notwithstanding the preceding sentence, the Sec-
22 retary shall require partnerships having more than
23 100 partners to file returns on magnetic media.”*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to partnership taxable years beginning*
3 *after December 31, 1995.*

4 **CHAPTER 4—FOREIGN PROVISIONS**
5 **Subchapter A—Modifications to Treatment of**
6 **Passive Foreign Investment Companies**

7 **SEC. 11481. UNITED STATES SHAREHOLDERS OF CON-**
8 **TROLLED FOREIGN CORPORATIONS NOT SUB-**
9 **JECT TO PFIC INCLUSION.**

10 *Section 1296 is amended by adding at the end the fol-*
11 *lowing new subsection:*

12 “(e) *EXCEPTION FOR UNITED STATES SHAREHOLDERS*
13 *OF CONTROLLED FOREIGN CORPORATIONS.*—

14 “(1) *IN GENERAL.*—*For purposes of this part, a*
15 *corporation shall not be treated with respect to a*
16 *shareholder as a passive foreign investment company*
17 *during the qualified portion of such shareholder’s*
18 *holding period with respect to stock in such corpora-*
19 *tion.*

20 “(2) *QUALIFIED PORTION.*—*For purposes of this*
21 *subsection, the term ‘qualified portion’ means the por-*
22 *tion of the shareholder’s holding period—*

23 “(A) *which is after December 31, 1995, and*

24 “(B) *during which the shareholder is a*
25 *United States shareholder (as defined in section*

1 951(b)) of the corporation and the corporation is
2 a controlled foreign corporation.

3 “(3) *NEW HOLDING PERIOD IF QUALIFIED POR-*
4 *TION ENDS.*—

5 “(A) *IN GENERAL.*—*Except as provided in*
6 *subparagraph (B), if the qualified portion of a*
7 *shareholder’s holding period with respect to any*
8 *stock ends after December 31, 1995, solely for*
9 *purposes of this part, the shareholder’s holding*
10 *period with respect to such stock shall be treated*
11 *as beginning as of the first day following such*
12 *period.*

13 “(B) *EXCEPTION.*—*Subparagraph (A) shall*
14 *not apply if such stock was, with respect to such*
15 *shareholder, stock in a passive foreign investment*
16 *company at any time before the qualified portion*
17 *of the shareholder’s holding period with respect*
18 *to such stock and no election under section*
19 *1298(b)(1) is made.”*

20 ***SEC. 11482. ELECTION OF MARK TO MARKET FOR MARKET-***
21 ***ABLE STOCK IN PASSIVE FOREIGN INVEST-***
22 ***MENT COMPANY.***

23 (a) *IN GENERAL.*—*Part VI of subchapter P of chapter*
24 1 *is amended by redesignating subpart C as subpart D, by*
25 *redesignating sections 1296 and 1297 as sections 1297 and*

1 1298, respectively, and by inserting after subpart B the fol-
2 lowing new subpart:

3 **“Subpart C—Election of Mark to Market For**
4 **Marketable Stock**

“Sec. 1296. Election of mark to market for marketable stock.

5 **“SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKET-**
6 **ABLE STOCK.**

7 “(a) *GENERAL RULE.*—*In the case of marketable stock*
8 *in a passive foreign investment company which is owned*
9 *(or treated under subsection (g) as owned) by a United*
10 *States person at the close of any taxable year of such person,*
11 *at the election of such person—*

12 “(1) *If the fair market value of such stock as of*
13 *the close of such taxable year exceeds its adjusted*
14 *basis, such United States person shall include in gross*
15 *income for such taxable year an amount equal to the*
16 *amount of such excess.*

17 “(2) *If the adjusted basis of such stock exceeds*
18 *the fair market value of such stock as of the close of*
19 *such taxable year, such United States person shall be*
20 *allowed a deduction for such taxable year equal to the*
21 *lesser of—*

22 “(A) *the amount of such excess, or*

23 “(B) *the unreversed inclusions with respect*
24 *to such stock.*

1 “(b) *BASIS ADJUSTMENTS.*—

2 “(1) *IN GENERAL.*—*The adjusted basis of stock*
3 *in a passive foreign investment company—*

4 “(A) *shall be increased by the amount in-*
5 *cluded in the gross income of the United States*
6 *person under subsection (a)(1) with respect to*
7 *such stock, and*

8 “(B) *shall be decreased by the amount al-*
9 *lowed as a deduction to the United States person*
10 *under subsection (a)(2) with respect to such*
11 *stock.*

12 “(2) *SPECIAL RULE FOR STOCK CONSTRUCTIVELY*
13 *OWNED.*—*In the case of stock in a passive foreign in-*
14 *vestment company which the United States person is*
15 *treated as owning under subsection (g)—*

16 “(A) *the adjustments under paragraph (1)*
17 *shall apply to such stock in the hands of the per-*
18 *son actually holding such stock but only for pur-*
19 *poses of determining the subsequent treatment*
20 *under this chapter of the United States person*
21 *with respect to such stock, and*

22 “(B) *similar adjustments shall be made to*
23 *the adjusted basis of the property by reason of*
24 *which the United States person is treated as*
25 *owning such stock.*

1 “(c) *CHARACTER AND SOURCE RULES.*—

2 “(1) *ORDINARY TREATMENT.*—

3 “(A) *GAIN.*—*Any amount included in gross*
4 *income under subsection (a)(1), and any gain on*
5 *the sale or other disposition of marketable stock*
6 *in a passive foreign investment company (with*
7 *respect to which an election under this section is*
8 *in effect), shall be treated as ordinary income.*

9 “(B) *LOSS.*—*Any—*

10 “(i) *amount allowed as a deduction*
11 *under subsection (a)(2), and*

12 “(ii) *loss on the sale or other disposi-*
13 *tion of marketable stock in a passive foreign*
14 *investment company (with respect to which*
15 *an election under this section is in effect) to*
16 *the extent that the amount of such loss does*
17 *not exceed the unreversed inclusions with re-*
18 *spect to such stock,*

19 *shall be treated as an ordinary loss. The amount*
20 *so treated shall be treated as a deduction allow-*
21 *able in computing adjusted gross income.*

22 “(2) *SOURCE.*—*The source of any amount in-*
23 *cluded in gross income under subsection (a)(1) (or al-*
24 *lowed as a deduction under subsection (a)(2)) shall be*
25 *determined in the same manner as if such amount*

1 *were gain or loss (as the case may be) from the sale*
2 *of stock in the passive foreign investment company.*

3 “(d) *UNREVERSED INCLUSIONS.*—*For purposes of this*
4 *section, the term ‘unreversed inclusions’ means, with respect*
5 *to any stock in a passive foreign investment company, the*
6 *excess (if any) of—*

7 *“(1) the amount included in gross income of the*
8 *taxpayer under subsection (a)(1) with respect to such*
9 *stock for prior taxable years, over*

10 *“(2) the amount allowed as a deduction under*
11 *subsection (a)(2) with respect to such stock for prior*
12 *taxable years.*

13 *The amount referred to in paragraph (1) shall include any*
14 *amount which would have been included in gross income*
15 *under subsection (a)(1) with respect to such stock for any*
16 *prior taxable year but for section 1291.*

17 “(e) *MARKETABLE STOCK.*—*For purposes of this sec-*
18 *tion—*

19 *“(1) IN GENERAL.*—*The term ‘marketable stock’*
20 *means—*

21 *“(A) any stock which is regularly traded*
22 *on—*

23 *“(i) a national securities exchange*
24 *which is registered with the Securities and*
25 *Exchange Commission or the national mar-*

1 *ket system established pursuant to section*
2 *11A of the Securities and Exchange Act of*
3 *1934, or*

4 *“(ii) any exchange or other market*
5 *which the Secretary determines has rules*
6 *adequate to carry out the purposes of this*
7 *part,*

8 *“(B) to the extent provided in regulations,*
9 *stock in any foreign corporation which is com-*
10 *parable to a regulated investment company and*
11 *which offers for sale or has outstanding any*
12 *stock of which it is the issuer and which is re-*
13 *deemable at its net asset value, and*

14 *“(C) to the extent provided in regulations,*
15 *any option on stock described in subparagraph*
16 *(A) or (B).*

17 *“(2) SPECIAL RULE FOR REGULATED INVEST-*
18 *MENT COMPANIES.—In the case of any regulated in-*
19 *vestment company which is offering for sale or has*
20 *outstanding any stock of which it is the issuer and*
21 *which is redeemable at its net asset value, all stock*
22 *in a passive foreign investment company which it*
23 *owns directly or indirectly shall be treated as market-*
24 *able stock for purposes of this section. Except as pro-*
25 *vided in regulations, similar treatment as marketable*

1 *stock shall apply in the case of any other regulated*
2 *investment company which publishes net asset valu-*
3 *ations at least annually.*

4 “(f) *TREATMENT OF CONTROLLED FOREIGN CORPORA-*
5 *TIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN*
6 *INVESTMENT COMPANIES.—In the case of a foreign corpora-*
7 *tion which is a controlled foreign corporation and which*
8 *owns (or is treated under subsection (g) as owning) stock*
9 *in a passive foreign investment company—*

10 “(1) *this section (other than subsection (c)(2))*
11 *shall apply to such foreign corporation in the same*
12 *manner as if such corporation were a United States*
13 *person, and*

14 “(2) *for purposes of subpart F of part III of sub-*
15 *chapter N—*

16 “(A) *any amount included in gross income*
17 *under subsection (a)(1) shall be treated as for-*
18 *ign personal holding company income described*
19 *in section 954(c)(1)(A), and*

20 “(B) *any amount allowed as a deduction*
21 *under subsection (a)(2) shall be treated as a de-*
22 *duction allocable to foreign personal holding*
23 *company income so described.*

24 “(g) *STOCK OWNED THROUGH CERTAIN FOREIGN EN-*
25 *TITIES.—Except as provided in regulations—*

1 “(1) *IN GENERAL.*—*For purposes of this section,*
2 *stock owned, directly or indirectly, by or for a foreign*
3 *partnership or foreign trust or foreign estate shall be*
4 *considered as being owned proportionately by its*
5 *partners or beneficiaries. Stock considered to be*
6 *owned by a person by reason of the application of the*
7 *preceding sentence shall, for purposes of applying*
8 *such sentence, be treated as actually owned by such*
9 *person.*

10 “(2) *TREATMENT OF CERTAIN DISPOSITIONS.*—
11 *In any case in which a United States person is treat-*
12 *ed as owning stock in a passive foreign investment*
13 *company by reason of paragraph (1)—*

14 “(A) *any disposition by the United States*
15 *person or by any other person which results in*
16 *the United States person being treated as no*
17 *longer owning such stock, and*

18 “(B) *any disposition by the person owning*
19 *such stock,*

20 *shall be treated as a disposition by the United States*
21 *person of the stock in the passive foreign investment*
22 *company.*

23 “(h) *COORDINATION WITH SECTION 851(b).*—*For pur-*
24 *poses of paragraphs (2) and (3) of section 851(b), any*

1 amount included in gross income under subsection (a) shall
2 be treated as a dividend.

3 “(i) *STOCK ACQUIRED FROM A DECEDENT.*—In the
4 case of stock of a passive foreign investment company which
5 is acquired by bequest, devise, or inheritance (or by the dece-
6 dent’s estate) and with respect to which an election under
7 this section was in effect as of the date of the decedent’s
8 death, notwithstanding section 1014, the basis of such stock
9 in the hands of the person so acquiring it shall be the ad-
10 justed basis of such stock in the hands of the decedent imme-
11 diately before his death (or, if lesser, the basis which would
12 have been determined under section 1014 without regard to
13 this subsection).

14 “(j) *COORDINATION WITH SECTION 1291 FOR FIRST*
15 *YEAR OF ELECTION.*—

16 “(1) *TAXPAYERS OTHER THAN REGULATED IN-*
17 *VESTMENT COMPANIES.*—

18 “(A) *IN GENERAL.*—If the taxpayer elects
19 the application of this section with respect to
20 any marketable stock in a corporation after the
21 beginning of the taxpayer’s holding period in
22 such stock, and if the requirements of subpara-
23 graph (B) are not satisfied, section 1291 shall
24 apply to—

1 “(i) any distributions with respect to,
2 or disposition of, such stock in the first tax-
3 able year of the taxpayer for which such
4 election is made, and

5 “(ii) any amount which, but for sec-
6 tion 1291, would have been included in
7 gross income under subsection (a) with re-
8 spect to such stock for such taxable year in
9 the same manner as if such amount were
10 gain on the disposition of such stock.

11 “(B) REQUIREMENTS.—The requirements of
12 this subparagraph are met if, with respect to
13 each of such corporation’s taxable years for
14 which such corporation was a passive foreign in-
15 vestment company and which begin after Decem-
16 ber 31, 1986, and included any portion of the
17 taxpayer’s holding period in such stock, such cor-
18 poration was treated as a qualified electing fund
19 under this part with respect to the taxpayer.

20 “(2) SPECIAL RULES FOR REGULATED INVEST-
21 MENT COMPANIES.—

22 “(A) IN GENERAL.—If a regulated invest-
23 ment company elects the application of this sec-
24 tion with respect to any marketable stock in a
25 corporation after the beginning of the taxpayer’s

1 *holding period in such stock, then, with respect*
2 *to such company's first taxable year for which*
3 *such company elects the application of this sec-*
4 *tion with respect to such stock—*

5 “(i) *section 1291 shall not apply to*
6 *such stock with respect to any distribution*
7 *or disposition during, or amount included*
8 *in gross income under this section for, such*
9 *first taxable year, but*

10 “(ii) *such regulated investment compa-*
11 *ny's tax under this chapter for such first*
12 *taxable year shall be increased by the aggre-*
13 *gate amount of interest which would have*
14 *been determined under section 1291(c)(3) if*
15 *section 1291 were applied without regard to*
16 *this subparagraph.*

17 *Clause (ii) shall not apply if for the preceding*
18 *taxable year the company elected to mark to*
19 *market the stock held by such company as of the*
20 *last day of such preceding taxable year.*

21 “(B) *DISALLOWANCE OF DEDUCTION.—No*
22 *deduction shall be allowed to any regulated in-*
23 *vestment company for the increase in tax under*
24 *subparagraph (A)(i).*

1 “(k) *ELECTION.*—*This section shall apply to market-*
2 *able stock in a passive foreign investment company which*
3 *is held by a United States person only if such person elects*
4 *to apply this section with respect to such stock. Such an*
5 *election shall apply to the taxable year for which made and*
6 *all subsequent taxable years unless—*

7 “(1) *such stock ceases to be marketable stock, or*
8 “(2) *the Secretary consents to the revocation of*
9 *such election.*

10 “(l) *TRANSITION RULE FOR INDIVIDUALS BECOMING*
11 *SUBJECT TO UNITED STATES TAX.*—*If any individual be-*
12 *comes a United States person in a taxable year beginning*
13 *after December 31, 1995, solely for purposes of this section,*
14 *the adjusted basis (before adjustments under subsection (b))*
15 *of any marketable stock in a passive foreign investment*
16 *company owned by such individual on the first day of such*
17 *taxable year shall be treated as being the greater of its fair*
18 *market value on such first day or its adjusted basis on such*
19 *first day.”*

20 “(b) *COORDINATION WITH INTEREST CHARGE, ETC.*—

21 “(1) *Paragraph (1) of section 1291(d) is amended*
22 *by adding at the end the following new flush sentence:*
23 *“Except as provided in section 1296(j), this section*
24 *also shall not apply if an election under section*
25 *1296(k) is in effect for the taxpayer’s taxable year.”*

1 (2) *The subsection heading for subsection (d) of*
2 *section 1291 is amended by striking “SUBPART B”*
3 *and inserting “SUBPARTS B AND C”.*

4 (3) *Subparagraph (A) of section 1291(a)(3) is*
5 *amended to read as follows:*

6 “(A) *HOLDING PERIOD.*—*The taxpayer’s*
7 *holding period shall be determined under section*
8 *1223; except that—*

9 “(i) *for purposes of applying this sec-*
10 *tion to an excess distribution, such holding*
11 *period shall be treated as ending on the date*
12 *of such distribution, and*

13 “(ii) *if section 1296 applied to such*
14 *stock with respect to the taxpayer for any*
15 *prior taxable year, such holding period shall*
16 *be treated as beginning on the first day of*
17 *the first taxable year beginning after the*
18 *last taxable year for which section 1296 so*
19 *applied.”*

20 (c) *CONFORMING AMENDMENTS.*—

21 (1) *Sections 532(b)(4) and 542(c)(10) are each*
22 *amended by striking “section 1296” and inserting*
23 *“section 1297”.*

1 (2) *Subsection (f) of section 551 is amended by*
 2 *striking “section 1297(b)(5)” and inserting “section*
 3 *1298(b)(5)”*

4 (3) *Subsections (a)(1) and (d) of section 1293*
 5 *are each amended by striking “section 1297(a)” and*
 6 *inserting “section 1298(a)”.*

7 (4) *Paragraph (3) of section 1297(b), as redesign-*
 8 *ated by subsection (a), is hereby repealed.*

9 (5) *The table of sections for subpart D of part*
 10 *VI of subchapter P of chapter 1, as redesignated by*
 11 *subsection (a), is amended to read as follows:*

“Sec. 1297. Passive foreign investment company.
“Sec. 1298. Special rules.”

12 (6) *The table of subparts for part VI of sub-*
 13 *chapter P of chapter 1 is amended by striking the last*
 14 *item and inserting the following new items:*

“Subpart C. Election of mark to market for marketable stock.
“Subpart D. General provisions.”

15 (d) *CLARIFICATION OF GAIN RECOGNITION ELEC-*
 16 *TION.—The last sentence of section 1298(b)(1), as so redesign-*
 17 *ated, is amended by inserting “(determined without re-*
 18 *gard to the preceding sentence)” after “investment com-*
 19 *pany”.*

20 **SEC. 11483. MODIFICATIONS TO DEFINITION OF PASSIVE IN-**
 21 **COME.**

22 (a) *EXCEPTION FOR SAME COUNTRY INCOME NOT TO*
 23 *APPLY.—Paragraph (1) of section 1297(b) (defining passive*

1 *income), as redesignated by section 11482, is amended by*
2 *inserting before the period “without regard to paragraph*
3 *(3) thereof”.*

4 *(b) PASSIVE INCOME NOT TO INCLUDE FSC IN-*
5 *COME.—Paragraph (2) of section 1297(b), as so redesign-*
6 *ated, is amended by striking “or” at the end of subpara-*
7 *graph (B), by striking the period at the end of subpara-*
8 *graph (C) and inserting “, or”, and by inserting after sub-*
9 *paragraph (C) the following new subparagraph:*

10 *“(D) any foreign trade income of a FSC.”*

11 **SEC. 11484. EFFECTIVE DATE.**

12 *The amendments made by this subchapter shall apply*
13 *to—*

14 *(1) taxable years of United States persons begin-*
15 *ning after December 31, 1995, and*

16 *(2) taxable years of foreign corporations ending*
17 *with or within such taxable years of United States*
18 *persons.*

1 **Subchapter B—Treatment of Controlled**
2 **Foreign Corporations**

3 **SEC. 11486. GAIN ON CERTAIN STOCK SALES BY CON-**
4 **TROLLED FOREIGN CORPORATIONS TREATED**
5 **AS DIVIDENDS.**

6 (a) *GENERAL RULE.*—Section 964 (relating to mis-
7 cellaneous provisions) is amended by adding at the end the
8 following new subsection:

9 “(e) *GAIN ON CERTAIN STOCK SALES BY CONTROLLED*
10 *FOREIGN CORPORATIONS TREATED AS DIVIDENDS.*—

11 “(1) *IN GENERAL.*—If a controlled foreign cor-
12 poration sells or exchanges stock in any other foreign
13 corporation, gain recognized on such sale or exchange
14 shall be included in the gross income of such con-
15 trolled foreign corporation as a dividend to the same
16 extent that it would have been so included under sec-
17 tion 1248(a) if such controlled foreign corporation
18 were a United States person. For purposes of deter-
19 mining the amount which would have been so includ-
20 ible, the determination of whether such other foreign
21 corporation was a controlled foreign corporation shall
22 be made without regard to the preceding sentence.

23 “(2) *SAME COUNTRY EXCEPTION NOT APPLICA-*
24 *BLE.*—Clause (i) of section 954(c)(3)(A) shall not

1 *apply to any amount treated as a dividend by reason*
2 *of paragraph (1).*

3 “(3) *CLARIFICATION OF DEEMED SALES.*—*For*
4 *purposes of this subsection, a controlled foreign cor-*
5 *poration shall be treated as having sold or exchanged*
6 *any stock if, under any provision of this subtitle, such*
7 *controlled foreign corporation is treated as having*
8 *gain from the sale or exchange of such stock.”*

9 (b) *AMENDMENT OF SECTION 904(d).*—*Clause (i) of*
10 *section 904(d)(2)(E) is amended by striking “and except*
11 *as provided in regulations, the taxpayer was a United*
12 *States shareholder in such corporation”.*

13 (c) *EFFECTIVE DATES.*—

14 (1) *The amendment made by subsection (a) shall*
15 *apply to gain recognized on transactions occurring*
16 *after the date of the enactment of this Act.*

17 (2) *The amendment made by subsection (b) shall*
18 *apply to distributions after the date of the enactment*
19 *of this Act.*

20 **SEC. 11487. MISCELLANEOUS MODIFICATIONS TO SUBPART**

21 **F.**

22 (a) *SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DE-*
23 *TERMINING PRO RATA SHARE.*—

24 (1) *IN GENERAL.*—*Paragraph (2) of section*
25 *951(a) (defining pro rata share of subpart F income)*

1 *is amended by adding at the end the following new*
2 *sentence: “For purposes of subparagraph (B), any*
3 *gain included in the gross income of any person as*
4 *a dividend under section 1248 shall be treated as a*
5 *distribution received by such person with respect to*
6 *the stock involved.”*

7 (2) *EFFECTIVE DATE.—The amendment made by*
8 *paragraph (1) shall apply to dispositions after the*
9 *date of the enactment of this Act.*

10 (b) *BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN*
11 *CORPORATION.—*

12 (1) *IN GENERAL.—Section 961 (relating to ad-*
13 *justments to basis of stock in controlled foreign cor-*
14 *porations and of other property) is amended by add-*
15 *ing at the end the following new subsection:*

16 “(c) *BASIS ADJUSTMENTS IN STOCK HELD BY FOR-*
17 *EIGN CORPORATION.—Under regulations prescribed by the*
18 *Secretary, if a United States shareholder is treated under*
19 *section 958(a)(2) as owning any stock in a controlled for-*
20 *eign corporation which is actually owned by another con-*
21 *trolled foreign corporation, adjustments similar to the ad-*
22 *justments provided by subsections (a) and (b) shall be made*
23 *to the basis of such stock in the hands of such other con-*
24 *trolled foreign corporation, but only for the purposes of de-*
25 *termining the amount included under section 951 in the*

1 gross income of such United States shareholder (or any
2 other United States shareholder who acquires from any per-
3 son any portion of the interest of such United States share-
4 holder by reason of which such shareholder was treated as
5 owning such stock, but only to the extent of such portion,
6 and subject to such proof of identity of such interest as the
7 Secretary may prescribe by regulations).”

8 (2) *EFFECTIVE DATE.*—The amendment made by
9 paragraph (1) shall apply for purposes of determin-
10 ing inclusions for taxable years of United States
11 shareholders beginning after December 31, 1995.

12 (c) *DETERMINATION OF PREVIOUSLY TAXED INCOME*
13 *IN SECTION 304 DISTRIBUTIONS, ETC.*—

14 (1) *IN GENERAL.*—Section 959 (relating to exclu-
15 sion from gross income of previously taxed earnings
16 and profits) is amended by adding at the end the fol-
17 lowing new subsection:

18 “(g) *ADJUSTMENTS FOR CERTAIN TRANSACTIONS.*—If
19 by reason of—

20 “(1) a transaction to which section 304 applies,

21 “(2) the structure of a United States sharehold-
22 er’s holdings in controlled foreign corporations, or

23 “(3) other circumstances,

24 there would be a multiple inclusion of any item in income
25 (or an inclusion or exclusion without an appropriate basis

1 adjustment) by reason of this subpart, the Secretary may
2 prescribe regulations providing such modifications in the
3 application of this subpart as may be necessary to eliminate
4 such multiple inclusion or provide such basis adjustment,
5 as the case may be.”

6 (2) *EFFECTIVE DATE.*—The amendment made by
7 paragraph (1) shall take effect on the date of the en-
8 actment of this Act.

9 (d) *CLARIFICATION OF TREATMENT OF BRANCH TAX*
10 *EXEMPTIONS OR REDUCTIONS.*—

11 (1) *IN GENERAL.*—Subsection (b) of section 952
12 is amended by adding at the end the following new
13 sentence: “For purposes of this subsection, any exemp-
14 tion (or reduction) with respect to the tax imposed by
15 section 884 shall not be taken into account.”.

16 (2) *EFFECTIVE DATE.*—The amendment made by
17 paragraph (1) shall apply to taxable years beginning
18 after December 31, 1986.

19 **SEC. 11488. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR**
20 **CERTAIN LOWER TIER COMPANIES.**

21 (a) *SECTION 902 CREDIT.*—

22 (1) *IN GENERAL.*—Subsection (b) of section 902
23 (relating to deemed taxes increased in case of certain
24 2nd and 3rd tier foreign corporations) is amended to
25 read as follows:

1 “(b) *DEEMED TAXES INCREASED IN CASE OF CERTAIN*
2 *LOWER TIER CORPORATIONS.*—

3 “(1) *IN GENERAL.*—*If—*

4 “(A) *any foreign corporation is a member*
5 *of a qualified group, and*

6 “(B) *such foreign corporation owns 10 per-*
7 *cent or more of the voting stock of another mem-*
8 *ber of such group from which it receives divi-*
9 *dends in any taxable year,*

10 *such foreign corporation shall be deemed to have paid*
11 *the same proportion of such other member’s post-1986*
12 *foreign income taxes as would be determined under*
13 *subsection (a) if such foreign corporation were a do-*
14 *mestic corporation.*

15 “(2) *QUALIFIED GROUP.*—*For purposes of para-*
16 *graph (1), the term ‘qualified group’ means—*

17 “(A) *the foreign corporation described in*
18 *subsection (a), and*

19 “(B) *any other foreign corporation if—*

20 “(i) *the domestic corporation owns at*
21 *least 5 percent of the voting stock of such*
22 *other foreign corporation indirectly through*
23 *a chain of foreign corporations connected*
24 *through stock ownership of at least 10 per-*
25 *cent of their voting stock,*

1 “(ii) the foreign corporation described
2 in subsection (a) is the first tier corporation
3 in such chain, and

4 “(iii) such other corporation is not
5 below the sixth tier in such chain.

6 The term ‘qualified group’ shall not include any for-
7 eign corporation below the third tier in the chain re-
8 ferred to in clause (i) unless such foreign corporation
9 is a controlled foreign corporation (as defined in sec-
10 tion 957) and the domestic corporation is a United
11 States shareholder (as defined in section 951(b)) in
12 such foreign corporation. Paragraph (1) shall apply
13 to those taxes paid by a member of the qualified
14 group below the third tier only with respect to periods
15 during which it was a controlled foreign corpora-
16 tion.”

17 (2) CONFORMING AMENDMENTS.—

18 (A) Subparagraph (B) of section 902(c)(3)
19 is amended by adding “or” at the end of clause
20 (i) and by striking clauses (ii) and (iii) and in-
21 serting the following new clause:

22 “(ii) the requirements of subsection
23 (b)(2) are met with respect to such foreign
24 corporation.”

1 (B) Subparagraph (B) of section 902(c)(4)
2 is amended by striking “3rd foreign corporation”
3 and inserting “sixth tier foreign corporation”.

4 (C) The heading for paragraph (3) of sec-
5 tion 902(c) is amended by striking “WHERE DO-
6 MESTIC CORPORATION ACQUIRES 10 PERCENT OF
7 FOREIGN CORPORATION” and inserting “WHERE
8 FOREIGN CORPORATION FIRST QUALIFIES”.

9 (D) Paragraph (3) of section 902(c) is
10 amended by striking “ownership” each place it
11 appears.

12 (b) SECTION 960 CREDIT.—Paragraph (1) of section
13 960(a) (relating to special rules for foreign tax credits) is
14 amended to read as follows:

15 “(1) DEEMED PAID CREDIT.—For purposes of
16 subpart A of this part, if there is included under sec-
17 tion 951(a) in the gross income of a domestic corpora-
18 tion any amount attributable to earnings and profits
19 of a foreign corporation which is a member of a
20 qualified group (as defined in section 902(b)) with re-
21 spect to the domestic corporation, then, except to the
22 extent provided in regulations, section 902 shall be
23 applied as if the amount so included were a dividend
24 paid by such foreign corporation (determined by ap-

1 *plying section 902(c) in accordance with section*
2 *904(d)(3)(B)).”*

3 (c) *EFFECTIVE DATE.*—

4 (1) *IN GENERAL.*—*The amendments made by*
5 *this section shall apply to taxes of foreign corpora-*
6 *tions for taxable years of such corporations beginning*
7 *after the date of enactment of this Act.*

8 (2) *SPECIAL RULE.*—*In the case of any chain of*
9 *foreign corporations described in clauses (i) and (ii)*
10 *of section 902(b)(2)(B) of the Internal Revenue Code*
11 *of 1986 (as amended by this section), no liquidation,*
12 *reorganization, or similar transaction in a taxable*
13 *year beginning after the date of the enactment of this*
14 *Act shall have the effect of permitting taxes to be*
15 *taken into account under section 902 of the Internal*
16 *Revenue Code of 1986 which could not have been*
17 *taken into account under such section but for such*
18 *transaction.*

19 ***SEC. 11489. REPEAL OF INCLUSION OF CERTAIN EARNINGS***
20 ***INVESTED IN EXCESS PASSIVE ASSETS.***

21 (a) *IN GENERAL.*—

22 (1) *REPEAL OF INCLUSION.*—*Paragraph (1) of*
23 *section 951(a) (relating to amounts included in gross*
24 *income of United States shareholders) is amended by*
25 *striking subparagraph (C), by striking “; and” at the*

1 *end of subparagraph (B) and inserting a period, and*
2 *by adding “and” at the end of subparagraph (A).*

3 (2) *REPEAL OF INCLUSION AMOUNT.—Section*
4 *956A (relating to earnings invested in excess passive*
5 *assets) is repealed.*

6 (b) *CONFORMING AMENDMENTS.—*

7 (1) *Paragraph (1) of section 956(b) is amended*
8 *to read as follows:*

9 “(1) *APPLICABLE EARNINGS.—For purposes of*
10 *this section, the term ‘applicable earnings’ means,*
11 *with respect to any controlled foreign corporation, the*
12 *sum of—*

13 “(A) *the amount (not including a deficit)*
14 *referred to in section 316(a)(1), and*

15 “(B) *the amount referred to in section*
16 *316(a)(2),*

17 *but reduced by distributions made during the taxable*
18 *year.”*

19 (2) *Paragraph (3) of section 956(b) is amended*
20 *to read as follows:*

21 “(3) *SPECIAL RULE WHERE CORPORATION*
22 *CEASES TO BE CONTROLLED FOREIGN CORPORA-*
23 *TION.—If any foreign corporation ceases to be a con-*
24 *trolled foreign corporation during any taxable year—*

1 “(A) the determination of any United
2 States shareholder’s pro rata share shall be made
3 on the basis of stock owned (within the meaning
4 of section 958(a)) by such shareholder on the last
5 day during the taxable year on which the foreign
6 corporation is a controlled foreign corporation,

7 “(B) the average referred to in subsection
8 (a)(1)(A) for such taxable year shall be deter-
9 mined by only taking into account quarters end-
10 ing on or before such last day, and

11 “(C) in determining applicable earnings,
12 the amount taken into account by reason of
13 being described in paragraph (2) of section
14 316(a) shall be the portion of the amount so de-
15 scribed which is allocable (on a pro rata basis)
16 to the part of such year during which the cor-
17 poration is a controlled foreign corporation.”

18 (3) Subsection (a) of section 959 (relating to ex-
19 clusion from gross income of previously taxed earn-
20 ings and profits) is amended by adding “or” at the
21 end of paragraph (1), by striking “or” at the end of
22 paragraph (2), and by striking paragraph (3).

23 (4) Subsection (a) of section 959 is amended by
24 striking “paragraphs (2) and (3)” in the last sentence
25 and inserting “paragraph (2)”.

1 (5) *Subsection (c) of section 959 is amended by*
2 *adding at the end the following flush sentence:*
3 *“References in this subsection to section 951(a)(1)(C) and*
4 *subsection (a)(3) shall be treated as references to such provi-*
5 *sions as in effect on the day before the date of the enactment*
6 *of the Revenue Reconciliation Act of 1995.”*

7 (6) *Paragraph (1) of section 959(f) is amended*
8 *to read as follows:*

9 *“(1) IN GENERAL.—For purposes of this section,*
10 *amounts that would be included under subparagraph*
11 *(B) of section 951(a)(1) (determined without regard*
12 *to this section) shall be treated as attributable first to*
13 *earnings described in subsection (c)(2), and then to*
14 *earnings described in subsection (c)(3).”*

15 (7) *Paragraph (2) of section 959(f) is amended*
16 *by striking “subparagraphs (B) and (C) of section*
17 *951(a)(1)” and inserting “section 951(a)(1)(B)”.*

18 (8) *Subsection (b) of section 989 is amended by*
19 *striking “subparagraph (B) or (C) of section*
20 *951(a)(1)” and inserting “section 951(a)(1)(B)”.*

21 (9) *Paragraph (9) of section 1298(b), as redesign-*
22 *ated by section 11482, is amended by striking “sub-*
23 *paragraph (B) or (C) of section 951(a)(1)” and in-*
24 *serting “section 951(a)(1)(B)”.*

1 (10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of
2 section 1298, as redesignated by section 11482, are
3 each amended by striking “or section 956A”.

4 (c) CLERICAL AMENDMENT.—The table of sections for
5 subpart F of part III of subchapter N of chapter 1 is
6 amended by striking the item relating to section 956A.

7 (d) EFFECTIVE DATE.—The amendments made by this
8 section shall apply to taxable years of foreign corporations
9 beginning after September 30, 1995, and to taxable years
10 of United States shareholders within which or with which
11 such taxable years of foreign corporations end.

12 **CHAPTER 5—OTHER INCOME TAX**

13 **PROVISIONS**

14 **Subchapter A—Provisions Relating to S**

15 **Corporations**

16 **SEC. 11501. S CORPORATIONS PERMITTED TO HAVE 75** 17 **SHAREHOLDERS.**

18 Subparagraph (A) of section 1361(b)(1) (defining
19 small business corporation) is amended by striking “35
20 shareholders” and inserting “75 shareholders”.

21 **SEC. 11502. ELECTING SMALL BUSINESS TRUSTS.**

22 (a) GENERAL RULE.—Subparagraph (A) of section
23 1361(c)(2) (relating to certain trusts permitted as share-
24 holders) is amended by inserting after clause (iv) the follow-
25 ing new clause:

1 “(v) *An electing small business trust.*”

2 (b) *CURRENT BENEFICIARIES TREATED AS SHARE-*
3 *HOLDERS.*—*Subparagraph (B) of section 1361(c)(2) is*
4 *amended by adding at the end the following new clause:*

5 “(v) *In the case of a trust described in*
6 *clause (v) of subparagraph (A), each poten-*
7 *tial current beneficiary of such trust shall*
8 *be treated as a shareholder; except that, if*
9 *for any period there is no potential current*
10 *beneficiary of such trust, such trust shall be*
11 *treated as the shareholder during such pe-*
12 *riod.*”

13 (c) *ELECTING SMALL BUSINESS TRUST DEFINED.*—
14 *Section 1361 (defining S corporation) is amended by add-*
15 *ing at the end the following new subsection:*

16 “(e) *ELECTING SMALL BUSINESS TRUST DEFINED.*—

17 “(1) *ELECTING SMALL BUSINESS TRUST.*—*For*
18 *purposes of this section—*

19 “(A) *IN GENERAL.*—*Except as provided in*
20 *subparagraph (B), the term ‘electing small busi-*
21 *ness trust’ means any trust if—*

22 “(i) *such trust does not have as a bene-*
23 *ficiary any person other than (I) an indi-*
24 *vidual, (II) an estate, or (III) an organiza-*
25 *tion described in paragraph (2), (3), (4), or*

1 (5) of section 170(c) which holds a contin-
2 gent interest and is not a potential current
3 beneficiary,

4 “(ii) no interest in such trust was ac-
5 quired by purchase, and

6 “(iii) an election under this subsection
7 applies to such trust.

8 “(B) CERTAIN TRUSTS NOT ELIGIBLE.—The
9 term ‘electing small business trust’ shall not in-
10 clude—

11 “(i) any qualified subchapter S trust
12 (as defined in subsection (d)(3)) if an elec-
13 tion under subsection (d)(2) applies to any
14 corporation the stock of which is held by
15 such trust, and

16 “(ii) any trust exempt from tax under
17 this subtitle.

18 “(C) PURCHASE.—For purposes of subpara-
19 graph (A), the term ‘purchase’ means any acqui-
20 sition if the basis of the property acquired is de-
21 termined under section 1012.

22 “(2) POTENTIAL CURRENT BENEFICIARY.—For
23 purposes of this section, the term ‘potential current
24 beneficiary’ means, with respect to any period, any
25 person who at any time during such period is entitled

1 to, or at the discretion of any person may receive, a
 2 distribution from the principal or income of the trust.
 3 If a trust disposes of all of the stock which it holds
 4 in an S corporation, then, with respect to such cor-
 5 poration, the term ‘potential current beneficiary’ does
 6 not include any person who first met the requirements
 7 of the preceding sentence during the 60-day period
 8 ending on the date of such disposition.

9 “(3) *ELECTION.*—An election under this sub-
 10 section shall be made by the trustee. Any such election
 11 shall apply to the taxable year of the trust for which
 12 made and all subsequent taxable years of such trust
 13 unless revoked with the consent of the Secretary.

14 “(4) *CROSS REFERENCE.*—
 **“For special treatment of electing small business
 trusts, see section 641(d).”**

15 (d) *TAXATION OF ELECTING SMALL BUSINESS*
 16 *TRUSTS.*—Section 641 (relating to imposition of tax on
 17 trusts) is amended by adding at the end the following new
 18 subsection:

19 “(d) *SPECIAL RULES FOR TAXATION OF ELECTING*
 20 *SMALL BUSINESS TRUSTS.*—

21 “(1) *IN GENERAL.*—For purposes of this chap-
 22 ter—

23 “(A) the portion of any electing small busi-
 24 ness trust which consists of stock in 1 or more

1 *S corporations shall be treated as a separate*
2 *trust, and*

3 “(B) *the amount of the tax imposed by this*
4 *chapter on such separate trust shall be deter-*
5 *mined with the modifications of paragraph (2).*

6 “(2) *MODIFICATIONS.—For purposes of para-*
7 *graph (1), the modifications of this paragraph are the*
8 *following:*

9 “(A) *Except as provided in section 1(h), the*
10 *amount of the tax imposed by section 1(e) shall*
11 *be determined by using the highest rate of tax set*
12 *forth in section 1(e).*

13 “(B) *The exemption amount under section*
14 *55(d) shall be zero.*

15 “(C) *The only items of income, loss, deduc-*
16 *tion, or credit to be taken into account are the*
17 *following:*

18 “(i) *The items required to be taken*
19 *into account under section 1366.*

20 “(ii) *Any gain or loss from the disposi-*
21 *tion of stock in an S corporation.*

22 “(iii) *To the extent provided in regula-*
23 *tions, State or local income taxes or admin-*
24 *istrative expenses to the extent allocable to*
25 *items described in clauses (i) and (ii).*

1 *No deduction or credit shall be allowed for any*
2 *amount not described in this paragraph, and no*
3 *item described in this paragraph shall be appor-*
4 *tioned to any beneficiary.*

5 “(D) *No amount shall be allowed under*
6 *paragraph (1) or (2) of section 1211(b).*

7 “(3) *TREATMENT OF REMAINDER OF TRUST AND*
8 *DISTRIBUTIONS.—For purposes of determining—*

9 “(A) *the amount of the tax imposed by this*
10 *chapter on the portion of any electing small*
11 *business trust not treated as a separate trust*
12 *under paragraph (1), and*

13 “(B) *the distributable net income of the en-*
14 *tire trust,*

15 *the items referred to in paragraph (2)(C) shall be ex-*
16 *cluded. Except as provided in the preceding sentence,*
17 *this subsection shall not affect the taxation of any dis-*
18 *tribution from the trust.*

19 “(4) *TREATMENT OF UNUSED DEDUCTIONS*
20 *WHERE TERMINATION OF SEPARATE TRUST.—If a*
21 *portion of an electing small business trust ceases to*
22 *be treated as a separate trust under paragraph (1),*
23 *any carryover or excess deduction of the separate*
24 *trust which is referred to in section 642(h) shall be*
25 *taken into account by the entire trust.*

1 **SEC. 11505. RULES RELATING TO INADVERTENT TERMI-**
2 **NATIONS AND INVALID ELECTIONS.**

3 (a) *GENERAL RULE.*—Subsection (f) of section 1362
4 (relating to inadvertent terminations) is amended to read
5 as follows:

6 “(f) *INADVERTENT INVALID ELECTIONS OR TERMI-*
7 *NATIONS.*—If—

8 “(1) *an election under subsection (a) by any cor-*
9 *poration—*

10 “(A) *was not effective for the taxable year*
11 *for which made (determined without regard to*
12 *subsection (b)(2)) by reason of a failure to meet*
13 *the requirements of section 1361(b) or to obtain*
14 *shareholder consents, or*

15 “(B) *was terminated under paragraph (2)*
16 *or (3) of subsection (d),*

17 “(2) *the Secretary determines that the cir-*
18 *cumstances resulting in such ineffectiveness or termi-*
19 *nation were inadvertent,*

20 “(3) *no later than a reasonable period of time*
21 *after discovery of the circumstances resulting in such*
22 *ineffectiveness or termination, steps were taken—*

23 “(A) *so that the corporation is a small busi-*
24 *ness corporation, or*

25 “(B) *to acquire the required shareholder*
26 *consents, and*

1 “(4) the corporation, and each person who was
2 a shareholder in the corporation at any time during
3 the period specified pursuant to this subsection, agrees
4 to make such adjustments (consistent with the treat-
5 ment of the corporation as an S corporation) as may
6 be required by the Secretary with respect to such pe-
7 riod,
8 then, notwithstanding the circumstances resulting in such
9 ineffectiveness or termination, such corporation shall be
10 treated as an S corporation during the period specified by
11 the Secretary.”

12 (b) LATE ELECTIONS.—Subsection (b) of section 1362
13 is amended by adding at the end the following new para-
14 graph:

15 “(5) AUTHORITY TO TREAT LATE ELECTIONS AS
16 TIMELY.—If—

17 “(A) an election under subsection (a) is
18 made for any taxable year (determined without
19 regard to paragraph (3)) after the date pre-
20 scribed by this subsection for making such elec-
21 tion for such taxable year, and

22 “(B) the Secretary determines that there
23 was reasonable cause for the failure to timely
24 make such election,

1 *the Secretary may treat such election as timely made*
2 *for such taxable year (and paragraph (3) shall not*
3 *apply).”*

4 *(c) EFFECTIVE DATE.—The amendments made by sub-*
5 *section (a) and (b) shall apply with respect to elections for*
6 *taxable years beginning after December 31, 1982.*

7 **SEC. 11506. AGREEMENT TO TERMINATE YEAR.**

8 *Paragraph (2) of section 1377(a) (relating to pro rata*
9 *share) is amended to read as follows:*

10 *“(2) ELECTION TO TERMINATE YEAR.—*

11 *“(A) IN GENERAL.—If any shareholder ter-*
12 *minates the shareholder’s interest in the corpora-*
13 *tion during the taxable year and all affected*
14 *shareholders and the corporation agree to the ap-*
15 *plication of this paragraph, paragraph (1) shall*
16 *be applied to the affected shareholders as if the*
17 *taxable year consisted of 2 taxable years the first*
18 *of which ends on the date of the termination.*

19 *“(B) AFFECTED SHAREHOLDERS.—For*
20 *purposes of subparagraph (A), the term ‘affected*
21 *shareholders’ means the shareholder whose inter-*
22 *est is terminated and all shareholders to whom*
23 *such shareholder has transferred shares during*
24 *the taxable year. If such shareholder has trans-*
25 *ferred shares to the corporation, the term ‘af-*

1 *ected shareholders' shall include all persons who*
2 *are shareholders during the taxable year."*

3 **SEC. 11507. EXPANSION OF POST-TERMINATION TRANSI-**
4 **TION PERIOD.**

5 *(a) IN GENERAL.—Paragraph (1) of section 1377(b)*
6 *(relating to post-termination transition period) is amended*
7 *by striking "and" at the end of subparagraph (A), by redesi-*
8 *gnating subparagraph (B) as subparagraph (C), and by*
9 *inserting after subparagraph (A) the following new sub-*
10 *paragraph:*

11 *"(B) the 120-day period beginning on the*
12 *date of any determination pursuant to an audit*
13 *of the taxpayer which follows the termination of*
14 *the corporation's election and which adjusts a*
15 *subchapter S item of income, loss, or deduction*
16 *of the corporation arising during the S period*
17 *(as defined in section 1368(e)(2)), and"*.

18 *(b) DETERMINATION DEFINED.—Paragraph (2) of sec-*
19 *tion 1377(b) is amended by striking subparagraphs (A) and*
20 *(B), by redesignating subparagraph (C) as subparagraph*
21 *(B), and by inserting before subparagraph (B) (as so redesi-*
22 *gnated) the following new subparagraph:*

23 *"(A) a determination as defined in section*
24 *1313(a), or"*.

1 (c) *REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUB-*
2 *CHAPTER S ITEMS.—*

3 (1) *GENERAL RULE.—Subchapter D of chapter*
4 *63 (relating to tax treatment of subchapter S items)*
5 *is hereby repealed.*

6 (2) *CONSISTENT TREATMENT REQUIRED.—Sec-*
7 *tion 6037 (relating to return of S corporation) is*
8 *amended by adding at the end the following new sub-*
9 *section:*

10 “(c) *SHAREHOLDER’S RETURN MUST BE CONSISTENT*
11 *WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF*
12 *INCONSISTENCY.—*

13 “(1) *IN GENERAL.—A shareholder of an S cor-*
14 *poration shall, on such shareholder’s return, treat a*
15 *subchapter S item in a manner which is consistent*
16 *with the treatment of such item on the corporate re-*
17 *turn.*

18 “(2) *NOTIFICATION OF INCONSISTENT TREAT-*
19 *MENT.—*

20 “(A) *IN GENERAL.—In the case of any sub-*
21 *chapter S item, if—*

22 “(i)(I) *the corporation has filed a re-*
23 *turn but the shareholder’s treatment on his*
24 *return is (or may be) inconsistent with the*

1 *treatment of the item on the corporate re-*
2 *turn, or*

3 “(II) *the corporation has not filed a re-*
4 *turn, and*

5 “(ii) *the shareholder files with the Sec-*
6 *retary a statement identifying the inconsist-*
7 *ency,*

8 *paragraph (1) shall not apply to such item.*

9 “(B) *SHAREHOLDER RECEIVING INCORRECT*
10 *INFORMATION.—A shareholder shall be treated as*
11 *having complied with clause (ii) of subpara-*
12 *graph (A) with respect to a subchapter S item if*
13 *the shareholder—*

14 “(i) *demonstrates to the satisfaction of*
15 *the Secretary that the treatment of the sub-*
16 *chapter S item on the shareholder’s return*
17 *is consistent with the treatment of the item*
18 *on the schedule furnished to the shareholder*
19 *by the corporation, and*

20 “(ii) *elects to have this paragraph*
21 *apply with respect to that item.*

22 “(3) *EFFECT OF FAILURE TO NOTIFY.—In any*
23 *case—*

24 “(A) *described in subparagraph (A)(i)(I) of*
25 *paragraph (2), and*

1 “(B) in which the shareholder does not com-
2 ply with subparagraph (A)(ii) of paragraph (2),
3 any adjustment required to make the treatment of the
4 items by such shareholder consistent with the treat-
5 ment of the items on the corporate return shall be
6 treated as arising out of mathematical or clerical er-
7 rors and assessed according to section 6213(b)(1).
8 Paragraph (2) of section 6213(b) shall not apply to
9 any assessment referred to in the preceding sentence.

10 “(4) *SUBCHAPTER S ITEM.*—For purposes of this
11 subsection, the term ‘subchapter S item’ means any
12 item of an S corporation to the extent that regula-
13 tions prescribed by the Secretary provide that, for
14 purposes of this subtitle, such item is more appro-
15 priately determined at the corporation level than at
16 the shareholder level.

17 “(5) *ADDITION TO TAX FOR FAILURE TO COMPLY*
18 *WITH SECTION.*—

**“For addition to tax in the case of a shareholder’s
negligence in connection with, or disregard of, the
requirements of this section, see part II of sub-
chapter A of chapter 68.”**

19 (3) *CONFORMING AMENDMENTS.*—

20 (A) Section 1366 is amended by striking
21 subsection (g).

22 (B) Subsection (b) of section 6233 is
23 amended to read as follows:

1 “(b) *SIMILAR RULES IN CERTAIN CASES.*—If a part-
 2 nership return is filed for any taxable year but it is deter-
 3 mined that there is no entity for such taxable year, to the
 4 extent provided in regulations, rules similar to the rules
 5 of subsection (a) shall apply.”

6 (C) *The table of subchapters for chapter 63*
 7 *is amended by striking the item relating to sub-*
 8 *chapter D.*

9 **SEC. 11508. S CORPORATIONS PERMITTED TO HOLD SUB-**
 10 **SIDIARIES.**

11 (a) *IN GENERAL.*—Paragraph (2) of section 1361(b)
 12 *(defining ineligible corporation) is amended by striking*
 13 *subparagraph (A) and by redesignating subparagraphs (B),*
 14 *(C), (D), and (E) as subparagraphs (A), (B), (C), and (D),*
 15 *respectively.*

16 (b) *TREATMENT OF CERTAIN WHOLLY OWNED S COR-*
 17 *PORATION SUBSIDIARIES.*—Section 1361(b) *(defining small*
 18 *business corporation) is amended by adding at the end the*
 19 *following new paragraph:*

20 “(3) *TREATMENT OF CERTAIN WHOLLY OWNED*
 21 *SUBSIDIARIES.*—

22 “(A) *IN GENERAL.*—For purposes of this
 23 *title—*

1 “(i) a corporation which is a qualified
2 subchapter S subsidiary shall not be treated
3 as a separate corporation, and

4 “(ii) all assets, liabilities, and items of
5 income, deduction, and credit of a qualified
6 subchapter S subsidiary shall be treated as
7 assets, liabilities, and such items (as the
8 case may be) of the S corporation.

9 “(B) *QUALIFIED SUBCHAPTER S SUBSIDI-*
10 *ARY.—For purposes of this paragraph, the term*
11 *‘qualified subchapter S subsidiary’ means any*
12 *domestic corporation which is not an ineligible*
13 *corporation (as defined in paragraph (2)), if—*

14 “(i) 100 percent of the stock of such
15 corporation is held by the S corporation,
16 and

17 “(ii) the S corporation elects to treat
18 such corporation as a qualified subchapter
19 S subsidiary.

20 “(C) *TREATMENT OF TERMINATIONS OF*
21 *QUALIFIED SUBCHAPTER S SUBSIDIARY STA-*
22 *TUS.—For purposes of this title, if any corpora-*
23 *tion which was a qualified subchapter S subsidi-*
24 *ary ceases to meet the requirements of subpara-*
25 *graph (B), such corporation shall be treated as*

1 *a new corporation acquiring all of its assets*
2 *(and assuming all of its liabilities) immediately*
3 *before such cessation from the S corporation in*
4 *exchange for its stock.”*

5 *(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE*
6 *INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is*
7 *amended by adding at the end the following new subpara-*
8 *graph:*

9 “(F) TREATMENT OF CERTAIN DIVI-
10 DENDS.—If an S corporation holds stock in a C
11 corporation meeting the requirements of section
12 1504(a)(2), the term ‘passive investment income’
13 shall not include dividends from such C corpora-
14 tion to the extent such dividends are attributable
15 to the earnings and profits of such C corporation
16 derived from the active conduct of a trade or
17 business.”

18 *(d) CONFORMING AMENDMENTS.—*

19 (1) Subsection (c) of section 1361 is amended by
20 striking paragraph (6).

21 (2) Subsection (b) of section 1504 (defining in-
22 cludible corporation) is amended by adding at the
23 end the following new paragraph:

24 “(8) An S corporation.”

1 **SEC. 11509. TREATMENT OF DISTRIBUTIONS DURING LOSS**
2 **YEARS.**

3 (a) *ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO*
4 *ACCOUNT BEFORE LOSSES.*—

5 (1) *Subparagraph (A) of section 1366(d)(1) (re-*
6 *lating to losses and deductions cannot exceed share-*
7 *holder's basis in stock and debt) is amended by strik-*
8 *ing “paragraph (1)” and inserting “paragraphs (1)*
9 *and (2)(A)”.*

10 (2) *Subsection (d) of section 1368 (relating to*
11 *certain adjustments taken into account) is amended*
12 *by adding at the end the following new sentence:*

13 *“In the case of any distribution made during any taxable*
14 *year, the adjusted basis of the stock shall be determined with*
15 *regard to the adjustments provided in paragraph (1) of sec-*
16 *tion 1367(a) for the taxable year.”*

17 (b) *ACCUMULATED ADJUSTMENTS ACCOUNT.*—*Para-*
18 *graph (1) of section 1368(e) (relating to accumulated ad-*
19 *justments account) is amended by adding at the end the*
20 *following new subparagraph:*

21 *“(C) NET LOSS FOR YEAR DISREGARDED.*—

22 *“(i) IN GENERAL.*—*In applying this section*
23 *to distributions made during any taxable year,*
24 *the amount in the accumulated adjustments ac-*
25 *count as of the close of such taxable year shall*

1 *be determined without regard to any net negative*
 2 *adjustment for such taxable year.*

3 “(i) *NET NEGATIVE ADJUSTMENT.*—*For*
 4 *purposes of clause (i), the term ‘net negative ad-*
 5 *justment’ means, with respect to any taxable*
 6 *year, the excess (if any) of—*

7 “(I) *the reductions in the account for*
 8 *the taxable year (other than for distribu-*
 9 *tions), over*

10 “(II) *the increases in such account for*
 11 *such taxable year.”*

12 (c) *CONFORMING AMENDMENTS.*—*Subparagraph (A)*
 13 *of section 1368(e)(1) is amended—*

14 (1) *by striking “as provided in subparagraph*
 15 *(B)” and inserting “as otherwise provided in this*
 16 *paragraph”, and*

17 (2) *by striking “section 1367(b)(2)(A)” and in-*
 18 *serting “section 1367(a)(2)”.*

19 ***SEC. 11510. TREATMENT OF S CORPORATIONS UNDER SUB-***
 20 ***CHAPTER C.***

21 *Subsection (a) of section 1371 (relating to application*
 22 *of subchapter C rules) is amended to read as follows:*

23 “(a) *APPLICATION OF SUBCHAPTER C RULES.*—*Ex-*
 24 *cept as otherwise provided in this title, and except to the*

1 *extent inconsistent with this subchapter, subchapter C shall*
2 *apply to an S corporation and its shareholders.”*

3 **SEC. 11511. ELIMINATION OF CERTAIN EARNINGS AND**
4 **PROFITS.**

5 (a) *IN GENERAL.—If—*

6 (1) *a corporation was an electing small business*
7 *corporation under subchapter S of chapter 1 of the*
8 *Internal Revenue Code of 1986 for any taxable year*
9 *beginning before January 1, 1983, and*

10 (2) *such corporation is an S corporation under*
11 *subchapter S of chapter 1 of such Code for its first*
12 *taxable year beginning after December 31, 1995,*

13 *the amount of such corporation’s accumulated earnings and*
14 *profits (as of the beginning of such first taxable year) shall*
15 *be reduced by an amount equal to the portion (if any) of*
16 *such accumulated earnings and profits which were accumu-*
17 *lated in any taxable year beginning before January 1, 1983,*
18 *for which such corporation was an electing small business*
19 *corporation under such subchapter S.*

20 (b) *CONFORMING AMENDMENTS.—*

21 (1) *Paragraph (3) of section 1362(d) is amend-*
22 *ed—*

23 (A) *by striking “SUBCHAPTER C” in the*
24 *paragraph heading and inserting “ACCUMU-*
25 *LATED”*,

1 (B) by striking “subchapter C” in subpara-
2 graph (A)(i)(I) and inserting “accumulated”,
3 and

4 (C) by striking subparagraph (B) and re-
5 designating the following subparagraphs accord-
6 ingly.

7 (2)(A) Subsection (a) of section 1375 is amended
8 by striking “subchapter C” in paragraph (1) and in-
9 serting “accumulated”.

10 (B) Paragraph (3) of section 1375(b) is amended
11 to read as follows:

12 “(3) *PASSIVE INVESTMENT INCOME, ETC.—The*
13 *terms ‘passive investment income’ and ‘gross receipts’*
14 *have the same respective meanings as when used in*
15 *paragraph (3) of section 1362(d).”*

16 (C) The section heading for section 1375 is
17 amended by striking “**subchapter c**” and inserting
18 “**accumulated**”.

19 (D) The table of sections for part III of sub-
20 chapter S of chapter 1 is amended by striking “sub-
21 chapter C” in the item relating to section 1375 and
22 inserting “accumulated”.

23 (3) Clause (i) of section 1042(c)(4)(A) is amend-
24 ed by striking “section 1362(d)(3)(D)” and inserting
25 “section 1362(d)(3)(C)”.

1 **SEC. 11512. CARRYOVER OF DISALLOWED LOSSES AND DE-**
2 **DUCTIONS UNDER AT-RISK RULES ALLOWED.**

3 *Paragraph (3) of section 1366(d) (relating to carryover*
4 *of disallowed losses and deductions to post-termination*
5 *transition period) is amended by adding at the end the fol-*
6 *lowing new subparagraph:*

7 *“(D) AT-RISK LIMITATIONS.—To the extent*
8 *that any increase in adjusted basis described in*
9 *subparagraph (B) would have increased the*
10 *shareholder’s amount at risk under section 465 if*
11 *such increase had occurred on the day preceding*
12 *the commencement of the post-termination tran-*
13 *sition period, rules similar to the rules described*
14 *in subparagraphs (A) through (C) shall apply to*
15 *any losses disallowed by reason of section*
16 *465(a).”*

17 **SEC. 11513. ADJUSTMENTS TO BASIS OF INHERITED S**
18 **STOCK TO REFLECT CERTAIN ITEMS OF IN-**
19 **COME.**

20 *(a) IN GENERAL.—Subsection (b) of section 1367 (re-*
21 *lating to adjustments to basis of stock of shareholders, etc.)*
22 *is amended by adding at the end the following new para-*
23 *graph:*

24 *“(4) ADJUSTMENTS IN CASE OF INHERITED*
25 *STOCK.—*

1 “(A) *IN GENERAL.*—If any person acquires
2 *stock in an S corporation by reason of the death*
3 *of a decedent or by bequest, devise, or inherit-*
4 *ance, section 691 shall be applied with respect to*
5 *any item of income of the S corporation in the*
6 *same manner as if the decedent had held directly*
7 *his pro rata share of such item.*

8 “(B) *ADJUSTMENTS TO BASIS.*—The basis
9 *determined under section 1014 of any stock in*
10 *an S corporation shall be reduced by the portion*
11 *of the value of the stock which is attributable to*
12 *items constituting income in respect of the dece-*
13 *dent.”*

14 (b) *EFFECTIVE DATE.*—The amendment made by sub-
15 *section (a) shall apply in the case of decedents dying after*
16 *the date of the enactment of this Act.*

17 ***SEC. 11514. S CORPORATIONS ELIGIBLE FOR RULES APPLI-***
18 ***CABLE TO REAL PROPERTY SUBDIVIDED FOR***
19 ***SALE BY NONCORPORATE TAXPAYERS.***

20 (a) *IN GENERAL.*—Subsection (a) of section 1237 (re-
21 *lating to real property subdivided for sale) is amended by*
22 *striking “other than a corporation” in the material preced-*
23 *ing paragraph (1) and inserting “other than a C corpora-*
24 *tion”.*

1 (b) *CONFORMING AMENDMENT.*—Subparagraph (A) of
2 section 1237(a)(2) is amended by inserting “an S corpora-
3 tion which included the taxpayer as a shareholder,” after
4 “controlled by the taxpayer,”.

5 **SEC. 11515. EFFECTIVE DATE.**

6 (a) *IN GENERAL.*—Except as otherwise provided in
7 this subchapter, the amendments made by this subchapter
8 shall apply to taxable years beginning after December 31,
9 1995.

10 (b) *TREATMENT OF CERTAIN ELECTIONS UNDER*
11 *PRIOR LAW.*—For purposes of section 1362(g) of the Inter-
12 nal Revenue Code of 1986 (relating to election after termi-
13 nation), any termination under section 1362(d) of such
14 Code in a taxable year beginning before January 1, 1996,
15 shall not be taken into account.

16 **Subchapter B—Repeal of 30-Percent Gross In-**
17 **come Limitation on Regulated Investment**
18 **Companies**

19 **SEC. 11521. REPEAL OF 30-PERCENT GROSS INCOME LIMITA-**
20 **TION.**

21 (a) *GENERAL RULE.*—Subsection (b) of section 851
22 (relating to limitations) is amended by striking paragraph
23 (3), by adding “and” at the end of paragraph (2), and by
24 redesignating paragraph (4) as paragraph (3).

25 (b) *TECHNICAL AMENDMENTS.*—

1 (1) *The material following paragraph (3) of sec-*
2 *tion 851(b) (as redesignated by subsection (a)) is*
3 *amended—*

4 (A) *by striking out “paragraphs (2) and*
5 *(3)” and inserting “paragraph (2)”, and*

6 (B) *by striking out the last sentence thereof.*

7 (2) *Subsection (c) of section 851 is amended by*
8 *striking “subsection (b)(4)” each place it appears (in-*
9 *cluding the heading) and inserting “subsection*
10 *(b)(3)”.*

11 (3) *Subsection (d) of section 851 is amended by*
12 *striking “subsections (b)(4)” and inserting “sub-*
13 *sections (b)(3)”.*

14 (4) *Paragraph (1) of section 851(e) is amended*
15 *by striking “subsection (b)(4)” and inserting “sub-*
16 *section (b)(3)”.*

17 (5) *Paragraph (4) of section 851(e) is amended*
18 *by striking “subsections (b)(4)” and inserting “sub-*
19 *sections (b)(3)”.*

20 (6) *Section 851 is amended by striking sub-*
21 *section (g) and redesignating subsection (h) as sub-*
22 *section (g).*

23 (7) *Subsection (g) of section 851 (as redesignated*
24 *by paragraph (6)) is amended by striking paragraph*
25 *(3).*

1 (8) Section 817(h)(2) is amended—

2 (A) by striking “851(b)(4)” in subpara-
3 graph (A) and inserting “851(b)(3)”, and

4 (B) by striking “851(b)(4)(A)(i)” in sub-
5 paragraph (B) and inserting “851(b)(3)(A)(i)”.

6 (9) Section 1092(f)(2) is amended by striking
7 “Except for purposes of section 851(b)(3), the” and
8 inserting “The”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to taxable years ending after the date
11 of the enactment of this Act.

12 **Subchapter C—Accounting Provisions**

13 **SEC. 11551. MODIFICATIONS TO LOOK-BACK METHOD FOR** 14 **LONG-TERM CONTRACTS.**

15 (a) *LOOK-BACK METHOD NOT TO APPLY IN CERTAIN*
16 *CASES.*—Subsection (b) of section 460 (relating to percent-
17 age of completion method) is amended by adding at the end
18 the following new paragraph:

19 “(6) *ELECTION TO HAVE LOOK-BACK METHOD*
20 *NOT APPLY IN DE MINIMIS CASES.*—

21 “(A) *AMOUNTS TAKEN INTO ACCOUNT*
22 *AFTER COMPLETION OF CONTRACT.*—Paragraph
23 (1)(B) shall not apply with respect to any tax-
24 able year (beginning after the taxable year in
25 which the contract is completed) if—

1 “(i) *the cumulative taxable income (or*
2 *loss) under the contract as of the close of*
3 *such taxable year, is within*

4 “(ii) *10 percent of the cumulative look-*
5 *back taxable income (or loss) under the con-*
6 *tract as of the close of the most recent tax-*
7 *able year to which paragraph (1)(B) ap-*
8 *plied (or would have applied but for sub-*
9 *paragraph (B)).*

10 “(B) *DE MINIMIS DISCREPANCIES.—Para-*
11 *graph (1)(B) shall not apply in any case to*
12 *which it would otherwise apply if—*

13 “(i) *the cumulative taxable income (or*
14 *loss) under the contract as of the close of*
15 *each prior contract year, is within*

16 “(ii) *10 percent of the cumulative look-*
17 *back income (or loss) under the contract as*
18 *of the close of such prior contract year.*

19 “(C) *DEFINITIONS.—For purposes of this*
20 *paragraph—*

21 “(i) *CONTRACT YEAR.—The term ‘con-*
22 *tract year’ means any taxable year for*
23 *which income is taken into account under*
24 *the contract.*

1 “(ii) *LOOK-BACK INCOME OR LOSS.*—
2 *The look-back income (or loss) is the*
3 *amount which would be the taxable income*
4 *(or loss) under the contract if the allocation*
5 *method set forth in paragraph (2)(A) were*
6 *used in determining taxable income.*

7 “(iii) *DISCOUNTING NOT APPLICA-*
8 *BLE.*—*The amounts taken into account*
9 *after the completion of the contract shall be*
10 *determined without regard to any discount-*
11 *ing under the 2nd sentence of paragraph*
12 *(2).*

13 “(D) *CONTRACTS TO WHICH PARAGRAPH*
14 *APPLIES.*—*This paragraph shall only apply if*
15 *the taxpayer makes an election under this sub-*
16 *paragraph. Unless revoked with the consent of*
17 *the Secretary, such an election shall apply to all*
18 *long-term contracts completed during the taxable*
19 *year for which election is made or during any*
20 *subsequent taxable year.”*

21 (b) *MODIFICATION OF INTEREST RATE.*—

22 (1) *IN GENERAL.*—*Subparagraph (C) of section*
23 *460(b)(2) is amended by striking “the overpayment*
24 *rate established by section 6621” and inserting “the*

1 *adjusted overpayment rate (as defined in paragraph*
2 *(7))”.*

3 (2) *ADJUSTED OVERPAYMENT RATE.*—*Subsection*
4 *(b) of section 460 is amended by adding at the end*
5 *the following new paragraph:*

6 “(7) *ADJUSTED OVERPAYMENT RATE.*—

7 “(A) *IN GENERAL.*—*The adjusted overpay-*
8 *ment rate for any interest accrual period is the*
9 *overpayment rate in effect under section 6621 for*
10 *the calendar quarter in which such interest ac-*
11 *crual period begins.*

12 “(B) *INTEREST ACCRUAL PERIOD.*—*For*
13 *purposes of subparagraph (A), the term ‘interest*
14 *accrual period’ means the period—*

15 “(i) *beginning on the day after the re-*
16 *turn due date for any taxable year of the*
17 *taxpayer, and*

18 “(ii) *ending on the return due date for*
19 *the following taxable year.*

20 *For purposes of the preceding sentence, the term*
21 *‘return due date’ means the date prescribed for*
22 *filing the return of the tax imposed by this chap-*
23 *ter (determined without regard to extensions).”*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to contracts completed in taxable years*
3 *ending after the date of the enactment of this Act.*

4 ***SEC. 11552. APPLICATION OF MARK TO MARKET ACCOUNT-***
5 ***ING METHOD TO TRADERS IN SECURITIES.***

6 (a) *IN GENERAL.*—*Section 475 (relating to mark to*
7 *market accounting method for dealers in securities) is*
8 *amended by redesignating subsection (e) as subsection (f)*
9 *and by inserting after subsection (d) the following new sub-*
10 *section:*

11 “(e) *AUTHORITY TO EXTEND METHOD TO TRADERS*
12 *IN SECURITIES.*—

13 “(1) *IN GENERAL.*—*A trader in securities may*
14 *elect to have the provisions of this section (other than*
15 *subsection (d)(3)) apply to securities held by the trad-*
16 *er. Such election may be made only with the consent*
17 *of the Secretary.*

18 “(2) *TRADER IN SECURITIES.*—*For purposes of*
19 *this subsection, the term ‘trader in securities’ means*
20 *a taxpayer who is regularly engaged in trading secu-*
21 *rities.’”*

22 (b) *EFFECTIVE DATE.*—*The amendments made by this*
23 *section shall apply to taxable years ending on and after*
24 *December 31, 1995.*

1 **SEC. 11553. MODIFICATION OF RULING AMOUNTS FOR NU-**
2 **CLEAR DECOMMISSIONING COSTS.**

3 (a) *IN GENERAL.*—Section 468A(d) (relating to ruling
4 amount) is amended by adding at the end the following new
5 paragraph:

6 “(4) *NONSUBSTANTIAL MODIFICATIONS.*—A
7 taxpayer may modify a schedule of ruling
8 amounts under paragraph (1) without a review
9 under paragraph (3) if such modification does
10 not substantially modify the ruling amount. The
11 taxpayer shall notify the Secretary of any such
12 modification.”

13 (b) *EFFECTIVE DATE.*—The amendment made by this
14 section shall apply to modifications after the date of the
15 enactment of this Act.

16 **Subchapter D—Tax-Exempt Bond Provision**

17 **SEC. 11561. REPEAL OF DEBT SERVICE-BASED LIMITATION**
18 **ON INVESTMENT IN CERTAIN NONPURPOSE**
19 **INVESTMENTS.**

20 (a) *IN GENERAL.*—Subsection (d) of section 148 (relat-
21 ing to special rules for reasonably required reserve or re-
22 placement fund) is amended by striking paragraph (3).

23 (b) *EFFECTIVE DATE.*—The amendments made by this
24 part shall apply to bonds issued after the date of the enact-
25 ment of this Act.

1 **Subchapter E—INSURANCE PROVISIONS**

2 **SEC. 11571. TREATMENT OF CERTAIN INSURANCE CON-**
3 **TRACTS ON RETIRED LIVES.**

4 (a) *GENERAL RULE.*—

5 (1) *Paragraph (2) of section 817(d) (defining*
6 *variable contract) is amended by striking “or” at the*
7 *end of subparagraph (A), by striking “and” at the*
8 *end of subparagraph (B) and inserting “or”, and by*
9 *inserting after subparagraph (B) the following new*
10 *subparagraph:*

11 *“(C) provides for funding of insurance on*
12 *retired lives as described in section 807(c)(6),*
13 *and”.*

14 (2) *Paragraph (3) of section 817(d) is amended*
15 *by striking “or” at the end of subparagraph (A), by*
16 *striking the period at the end of subparagraph (B)*
17 *and inserting “, or”, and by inserting after subpara-*
18 *graph (B) the following new subparagraph:*

19 *“(C) in the case of funds held under a con-*
20 *tract described in paragraph (2)(C), the amounts*
21 *paid in, or the amounts paid out, reflect the in-*
22 *vestment return and the market value of the seg-*
23 *regated asset account.”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 31, 1995.*

4 **SEC. 11572. TREATMENT OF MODIFIED GUARANTEED CON-**
 5 **TRACTS.**

6 (a) *GENERAL RULE.*—*Subpart E of part I of sub-*
 7 *chapter L of chapter 1 (relating to definitions and special*
 8 *rules) is amended by inserting after section 817 the follow-*
 9 *ing new section:*

10 **“SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED**
 11 **CONTRACTS.**

12 “(a) *COMPUTATION OF RESERVES.*—*In the case of a*
 13 *modified guaranteed contract, clause (ii) of section*
 14 *807(e)(1)(A) shall not apply.*

15 “(b) *SEGREGATED ASSETS UNDER MODIFIED GUAR-*
 16 *ANTEED CONTRACTS MARKED TO MARKET.*—

17 “(1) *IN GENERAL.*—*In the case of any life insur-*
 18 *ance company, for purposes of this subtitle—*

19 “(A) *Any gain or loss with respect to a seg-*
 20 *regated asset shall be treated as ordinary income*
 21 *or loss, as the case may be.*

22 “(B) *If any segregated asset is held by such*
 23 *company as of the close of any taxable year—*

24 “(i) *such company shall recognize gain*
 25 *or loss as if such asset were sold for its fair*

1 market value on the last business day of
2 such taxable year, and

3 “(ii) any such gain or loss shall be
4 taken into account for such taxable year.

5 Proper adjustment shall be made in the amount
6 of any gain or loss subsequently realized for gain
7 or loss taken into account under the preceding
8 sentence. The Secretary may provide by regula-
9 tions for the application of this subparagraph at
10 times other than the times provided in this sub-
11 paragraph.

12 “(2) *SEGREGATED ASSET*.—For purposes of
13 paragraph (1), the term ‘segregated asset’ means any
14 asset held as part of a segregated account referred to
15 in subsection (d)(1) under a modified guaranteed con-
16 tract.

17 “(c) *SPECIAL RULE IN COMPUTING LIFE INSURANCE*
18 *RESERVES*.—For purposes of applying section 816(b)(1)(A)
19 to any modified guaranteed contract, an assumed rate of
20 interest shall include a rate of interest determined, from
21 time to time, with reference to a market rate of interest.

22 “(d) *MODIFIED GUARANTEED CONTRACT DEFINED*.—
23 For purposes of this section, the term ‘modified guaranteed
24 contract’ means a contract not described in section 817—

1 “(1) all or part of the amounts received under
2 which are allocated to an account which, pursuant to
3 State law or regulation, is segregated from the general
4 asset accounts of the company and is valued from
5 time to time with reference to market values,

6 “(2) which—

7 “(A) provides for the payment of annuities,

8 “(B) is a life insurance contract, or

9 “(C) is a pension plan contract which is
10 not a life, accident, or health, property, casualty,
11 or liability contract,

12 “(3) for which reserves are valued at market for
13 annual statement purposes, and

14 “(4) which provides for a net surrender value or
15 a policyholder’s fund (as defined in section 807(e)(1)).

16 If only a portion of a contract is not described in section
17 817, such portion shall be treated for purposes of this section
18 as a separate contract.

19 “(e) REGULATIONS.—The Secretary may prescribe reg-
20 ulations—

21 “(1) to provide for the treatment of market value
22 adjustments under sections 72, 7702, 7702A, and
23 807(e)(1)(B),

24 “(2) to determine the interest rates applicable
25 under sections 807(c)(3), 807(d)(2)(B), and 812 with

1 *respect to a modified guaranteed contract annually,*
2 *in a manner appropriate for modified guaranteed*
3 *contracts and, to the extent appropriate for such a*
4 *contract, to modify or waive the applicability of sec-*
5 *tion 811(d),*

6 “(3) *to provide rules to limit ordinary gain or*
7 *loss treatment to assets constituting reserves for modi-*
8 *fied guaranteed contracts (and not other assets) of the*
9 *company,*

10 “(4) *to provide appropriate treatment of trans-*
11 *fers of assets to and from the segregated account, and*

12 “(5) *as may be necessary or appropriate to carry*
13 *out the purposes of this section.”.*

14 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
15 *subpart E of part I of subchapter L of chapter 1 is amended*
16 *by inserting after the item relating to section 817 the follow-*
17 *ing new item:*

“Sec. 817A. Special rules for modified guaranteed contracts.”.

18 (c) *EFFECTIVE DATE.*—

19 (1) *IN GENERAL.*—*The amendments made by*
20 *this section shall apply to taxable years beginning*
21 *after December 31, 1995.*

22 (2) *TREATMENT OF NET ADJUSTMENTS.*—*In the*
23 *case of any taxpayer required by the amendments*
24 *made by this section to change its calculation of re-*
25 *serves to take into account market value adjustments*

1 *and to mark segregated assets to market for any tax-*
2 *able year—*

3 *(A) such changes shall be treated as a*
4 *change in method of accounting initiated by the*
5 *taxpayer,*

6 *(B) such changes shall be treated as made*
7 *with the consent of the Secretary, and*

8 *(C) the adjustments required by reason of*
9 *section 481 of the Internal Revenue Code of 1986*
10 *shall be taken into account as ordinary income*
11 *or loss by the taxpayer for the taxpayer's first*
12 *taxable year beginning after December 31, 1995.*

13 ***Subchapter F—Other Provisions***

14 ***SEC. 11581. CLOSING OF PARTNERSHIP TAXABLE YEAR***
15 ***WITH RESPECT TO DECEASED PARTNER, ETC.***

16 *(a) GENERAL RULE.—Subparagraph (A) of section*
17 *706(c)(2) (relating to disposition of entire interest) is*
18 *amended to read as follows:*

19 *“(A) DISPOSITION OF ENTIRE INTEREST.—*
20 *The taxable year of a partnership shall close*
21 *with respect to a partner whose entire interest in*
22 *the partnership terminates (whether by reason of*
23 *death, liquidation, or otherwise).”*

1 (b) *CLERICAL AMENDMENT.*—*The paragraph heading*
2 *for paragraph (2) of section 706(c) is amended to read as*
3 *follows:*

4 “(2) *TREATMENT OF DISPOSITIONS.*—”.

5 (c) *EFFECTIVE DATE.*—*The amendments made by this*
6 *section shall apply to partnership taxable years beginning*
7 *after December 31, 1995.*

8 **SEC. 11582. CREDIT FOR SOCIAL SECURITY TAXES PAID**
9 **WITH RESPECT TO EMPLOYEE CASH TIPS.**

10 (a) *REPORTING REQUIREMENT NOT CONSIDERED.*—
11 *Subparagraph (A) of section 45B(b)(1) (relating to excess*
12 *employer social security tax) is amended by inserting*
13 *“(without regard to whether such tips are reported under*
14 *section 6053)” after “section 3121(q)”.*

15 (b) *TAXES PAID.*—*Subsection (d) of section 13443 of*
16 *the Revenue Reconciliation Act of 1993 is amended by in-*
17 *serting “, with respect to services performed before, on, or*
18 *after such date” after “1993”.*

19 (c) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall take effect as if included in the amendments*
21 *made by, and the provisions of, section 13443 of the Reve-*
22 *nue Reconciliation Act of 1993.*

1 **SEC. 11583. DUE DATE FOR FIRST QUARTER ESTIMATED**
2 **TAX PAYMENTS BY PRIVATE FOUNDATIONS.**

3 (a) *IN GENERAL.*—Paragraph (3) of section 6655(g)
4 is amended by inserting after subparagraph (C) the follow-
5 ing new subparagraph:

6 “(D) In the case of any private foundation,
7 subsection (c)(2) shall be applied by substituting
8 ‘May 15’ for ‘April 15’ ”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-
10 section (a) shall apply to taxable years beginning after De-
11 cember 31, 1995.

12 **CHAPTER 6—ESTATES AND TRUSTS**

13 **Subchapter A—Income Tax Provisions**

14 **SEC. 11601. CERTAIN REVOCABLE TRUSTS TREATED AS**
15 **PART OF ESTATE.**

16 (a) *IN GENERAL.*—Subpart A of part I of subchapter
17 J (relating to estates, trusts, beneficiaries, and decedents)
18 is amended by adding at the end the following new section:

19 **“SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART**
20 **OF ESTATE.**

21 “(a) *GENERAL RULE.*—For purposes of this subtitle,
22 if both the executor (if any) of an estate and the trustee
23 of a qualified revocable trust elect the treatment provided
24 in this section, such trust shall be treated and taxed as part
25 of such estate (and not as a separate trust) for all taxable

1 *years of the estate ending after the date of the decedent's*
2 *death and before the applicable date.*

3 “(b) *DEFINITIONS.—For purposes of subsection (a)—*

4 “(1) *QUALIFIED REVOCABLE TRUST.—The term*
5 *‘qualified revocable trust’ means any trust (or portion*
6 *thereof) which was treated under section 676 as*
7 *owned by the decedent of the estate referred to in sub-*
8 *section (a) by reason of a power in the grantor (deter-*
9 *mined without regard to section 672(e)).*

10 “(2) *APPLICABLE DATE.—The term ‘applicable*
11 *date’ means—*

12 “(A) *if no return of tax imposed by chapter*
13 *11 is required to be filed, the date which is 2*
14 *years after the date of the decedent's death, and*

15 “(B) *if such a return is required to be filed,*
16 *the date which is 6 months after the date of the*
17 *final determination of the liability for tax im-*
18 *posed by chapter 11.*

19 “(c) *ELECTION.—The election under subsection (a)*
20 *shall be made not later than the time prescribed for filing*
21 *the return of tax imposed by this chapter for the first tax-*
22 *able year of the estate (determined with regard to exten-*
23 *sions) and, once made, shall be irrevocable.”*

24 (b) *COMPARABLE TREATMENT UNDER GENERATION-*
25 *SKIPPING TAX.—Paragraph (1) of section 2652(b) is*

1 *amended by adding at the end the following new sentence:*
 2 *“Such term shall not include any trust during any period*
 3 *the trust is treated as part of an estate under section 646.”*

4 *(c) CLERICAL AMENDMENT.—The table of sections for*
 5 *such subpart A is amended by adding at the end the follow-*
 6 *ing new item:*

“Sec. 646. Certain revocable trusts treated as part of estate.”

7 *(d) EFFECTIVE DATE.—The amendments made by this*
 8 *section shall apply with respect to estates of decedents dying*
 9 *after the date of the enactment of this Act.*

10 **SEC. 11602. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAX-**
 11 **ABLE YEAR OF ESTATE.**

12 *(a) IN GENERAL.—Subsection (b) of section 663 (relat-*
 13 *ing to distributions in first 65 days of taxable year) is*
 14 *amended by inserting “an estate or” before “a trust” each*
 15 *place it appears.*

16 *(b) CONFORMING AMENDMENT.—Paragraph (2) of sec-*
 17 *tion 663(b) is amended by striking “the fiduciary of such*
 18 *trust” and inserting “the executor of such estate or the fidu-*
 19 *ciary of such trust (as the case may be)”.*

20 *(c) EFFECTIVE DATE.—The amendments made by this*
 21 *section shall apply to taxable years beginning after the date*
 22 *of the enactment of this Act.*

1 **SEC. 11603. SEPARATE SHARE RULES AVAILABLE TO**
2 **ESTATES.**

3 (a) *IN GENERAL.*—Subsection (c) of section 663 (relat-
4 ing to separate shares treated as separate trusts) is amend-
5 ed—

6 (1) by inserting before the last sentence the fol-
7 lowing new sentence: “Rules similar to the rules of the
8 preceding provisions of this subsection shall apply to
9 treat substantially separate and independent shares of
10 different beneficiaries in an estate having more than
11 1 beneficiary as separate estates.”, and

12 (2) by inserting “or estates” after “trusts” in the
13 last sentence.

14 (b) *CONFORMING AMENDMENT.*—The subsection head-
15 ing of section 663(c) is amended by inserting “ESTATES
16 OR” before “TRUSTS”.

17 (c) *EFFECTIVE DATE.*—The amendments made by this
18 section shall apply to estates of decedents dying after the
19 date of the enactment of this Act.

20 **SEC. 11604. EXECUTOR OF ESTATE AND BENEFICIARIES**
21 **TREATED AS RELATED PERSONS FOR DIS-**
22 **ALLOWANCE OF LOSSES, ETC.**

23 (a) *DISALLOWANCE OF LOSSES.*—Subsection (b) of sec-
24 tion 267 (relating to losses, expenses, and interest with re-
25 spect to transactions between related taxpayers) is amended
26 by striking “or” at the end of paragraph (11), by striking

1 *the period at the end of paragraph (12) and inserting “;*
2 *or”, and by adding at the end the following new paragraph:*

3 “(13) *Except in the case of a sale or exchange in*
4 *satisfaction of a pecuniary bequest, an executor of an*
5 *estate and a beneficiary of such estate.”*

6 **(b) ORDINARY INCOME FROM GAIN FROM SALE OF**
7 **DEPRECIABLE PROPERTY.**—*Subsection (b) of section 1239*
8 *is amended by striking the period at the end of paragraph*
9 *(2) and inserting “, and” and by adding at the end the*
10 *following new paragraph:*

11 “(3) *except in the case of a sale or exchange in*
12 *satisfaction of a pecuniary bequest, an executor of an*
13 *estate and a beneficiary of such estate.”*

14 **(c) EFFECTIVE DATE.**—*The amendments made by this*
15 *section shall apply to taxable years beginning after the date*
16 *of the enactment of this Act.*

17 **SEC. 11605. LIMITATION ON TAXABLE YEAR OF ESTATES.**

18 **(a) IN GENERAL.**—*Section 645 (relating to taxable*
19 *year of trusts) is amended to read as follows:*

20 **“SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.**

21 “(a) **ESTATES.**—*For purposes of this subtitle, the tax-*
22 *able year of an estate shall be a year ending on October*
23 *31, November 30, or December 31.*

24 “(b) **TRUSTS.**—

1 “(1) *IN GENERAL.*—For purposes of this subtitle,
2 the taxable year of any trust shall be the calendar
3 year.

4 “(2) *EXCEPTION FOR TRUSTS EXEMPT FROM TAX*
5 *AND CHARITABLE TRUSTS.*—Paragraph (1) shall not
6 apply to a trust exempt from taxation under section
7 501(a) or to a trust described in section 4947(a)(1).”

8 (b) *CLERICAL AMENDMENT.*—The table of sections for
9 subpart A of part I of subchapter J of chapter 1 is amended
10 by striking the item relating to section 645 and inserting
11 the following new item:

 “Sec. 645. Taxable year of estates and trusts.”

12 (c) *EFFECTIVE DATE.*—The amendments made by this
13 section shall apply to estates of decedents dying after the
14 date of the enactment of this Act.

15 **SEC. 11606. TREATMENT OF FUNERAL TRUSTS.**

16 (a) *IN GENERAL.*—Subpart F of part I of subchapter
17 J of chapter 1 is amended by adding at the end the follow-
18 ing new section:

19 **“SEC. 684. TREATMENT OF FUNERAL TRUSTS.**

20 “(a) *IN GENERAL.*—In the case of a qualified funeral
21 trust—

22 “(1) subparts B, C, D, and E shall not apply,
23 and

24 “(2) no deduction shall be allowed by section
25 642(b).

1 “(b) *QUALIFIED FUNERAL TRUST.*—For purposes of
2 *this subsection, the term ‘qualified funeral trust’ means any*
3 *trust (other than a foreign trust) if—*

4 “(1) *the trust arises as a result of a contract*
5 *with a person engaged in the trade or business of pro-*
6 *viding funeral or burial services or property nec-*
7 *essary to provide such services,*

8 “(2) *the sole purpose of the trust is to hold, in-*
9 *vest, and reinvest funds in the trust and to use such*
10 *funds solely to make payments for such services or*
11 *property for the benefit of the beneficiaries of the*
12 *trust,*

13 “(3) *the only beneficiaries of such trust are indi-*
14 *viduals who have entered into contracts described in*
15 *paragraph (1) to have such services or property pro-*
16 *vided at their death,*

17 “(4) *the only contributions to the trust are con-*
18 *tributions by or for the benefit of such beneficiaries,*

19 “(5) *the trustee elects the application of this sub-*
20 *section, and*

21 “(6) *the trust would (but for the election de-*
22 *scribed in paragraph (5)) be treated as owned by the*
23 *beneficiaries under subpart E.*

24 “(c) *DOLLAR LIMITATION ON CONTRIBUTIONS.*—

1 “(1) *IN GENERAL.*—*The term ‘qualified funeral*
2 *trust’ shall not include any trust which accepts aggregate*
3 *contributions by or for the benefit of an individual*
4 *in excess of \$7,000.*

5 “(2) *RELATED TRUSTS.*—*For purposes of paragraph*
6 *(1), all trusts having trustees which are related*
7 *persons shall be treated as 1 trust. For purposes of the*
8 *preceding sentence, persons are related if—*

9 “(A) *the relationship between such persons*
10 *would result in the disallowance of losses under*
11 *section 267 or 707(b),*

12 “(B) *such persons are treated as a single*
13 *employer under subsection (a) or (b) of section*
14 *52, or*

15 “(C) *the Secretary determines that treating*
16 *such persons as related is necessary to prevent*
17 *avoidance of the purposes of this section.*

18 “(3) *INFLATION ADJUSTMENT.*—*In the case of*
19 *any contract referred to in subsection (b)(1) which is*
20 *entered into during any calendar year after 1996, the*
21 *dollar amount referred to paragraph (1) shall be in-*
22 *creased by an amount equal to—*

23 “(A) *such dollar amount, multiplied by*

24 “(B) *the cost-of-living adjustment deter-*
25 *mined under section 1(f)(3) for such calendar*

1 year, by substituting ‘calendar year 1995’ for
2 ‘calendar year 1992’ in subparagraph (B) there-
3 of.

4 If any dollar amount after being increased under the
5 preceding sentence is not a multiple of \$100, such dol-
6 lar amount shall be rounded to the nearest multiple
7 of \$100.

8 “(d) *APPLICATION OF RATE SCHEDULE.*—Section 1(e)
9 shall be applied to each qualified funeral trust by treating
10 each beneficiary’s interest in each such trust as a separate
11 trust.

12 “(e) *TREATMENT OF AMOUNTS REFUNDED TO BENE-*
13 *FICIARY ON CANCELLATION.*—No gain or loss shall be recog-
14 nized to a beneficiary described in subsection (b)(3) of any
15 qualified funeral trust by reason of any payment from such
16 trust to such beneficiary by reason of cancellation of a con-
17 tract referred to in subsection (b)(1). If any payment re-
18 ferred to in the preceding sentence consists of property other
19 than money, the basis of such property in the hands of such
20 beneficiary shall be the same as the trust’s basis in such
21 property immediately before the payment.

22 “(f) *SIMPLIFIED REPORTING.*—The Secretary may
23 prescribe rules for simplified reporting of all trusts having
24 a single trustee.”

1 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
2 *subpart F of part I of subchapter J of chapter 1 is amended*
3 *by adding at the end the following new item:*

“Sec. 684. Treatment of funeral trusts.”

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
5 *section shall apply to taxable years beginning after the date*
6 *of the enactment of this Act.*

7 ***Subchapter B—Estate and Gift Tax Provisions***

8 ***SEC. 11611. CLARIFICATION OF WAIVER OF CERTAIN***
9 ***RIGHTS OF RECOVERY.***

10 (a) *AMENDMENT TO SECTION 2207A.*—*Paragraph (2)*
11 *of section 2207A(a) (relating to right of recovery in the case*
12 *of certain marital deduction property) is amended to read*
13 *as follows:*

14 “*(2) DECEDENT MAY OTHERWISE DIRECT.*—
15 *Paragraph (1) shall not apply with respect to any*
16 *property to the extent that the decedent in his will (or*
17 *a revocable trust) specifically indicates an intent to*
18 *waive any right of recovery under this subchapter*
19 *with respect to such property.*”

20 (b) *AMENDMENT TO SECTION 2207B.*—*Paragraph (2)*
21 *of section 2207B(a) (relating to right of recovery where de-*
22 *cedent retained interest) is amended to read as follows:*

23 “*(2) DECEDENT MAY OTHERWISE DIRECT.*—
24 *Paragraph (1) shall not apply with respect to any*
25 *property to the extent that the decedent in his will (or*

1 *a revocable trust) specifically indicates an intent to*
2 *waive any right of recovery under this subchapter*
3 *with respect to such property.”*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
5 *section shall apply with respect to the estates of decedents*
6 *dying after the date of the enactment of this Act.*

7 **SEC. 11612. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF**
8 **DECEDENT’S DEATH.**

9 *(a) GENERAL RULE.—Section 2035 is amended to*
10 *read as follows:*

11 **“SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE**
12 **WITHIN 3 YEARS OF DECEDENT’S DEATH.**

13 **“(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ES-**
14 **TATE.—If—**

15 **“(1) the decedent made a transfer (by trust or**
16 **otherwise) of an interest in any property, or relin-**
17 **quished a power with respect to any property, during**
18 **the 3-year period ending on the date of the decedent’s**
19 **death, and**

20 **“(2) the value of such property (or an interest**
21 **therein) would have been included in the decedent’s**
22 **gross estate under section 2036, 2037, 2038, or 2042**
23 **if such transferred interest or relinquished power had**
24 **been retained by the decedent on the date of his death,**

1 *the value of the gross estate shall include the value of any*
2 *property (or interest therein) which would have been so in-*
3 *cluded.*

4 “(b) *INCLUSION OF GIFT TAX ON GIFTS MADE DURING*
5 *3 YEARS BEFORE DECEDENT’S DEATH.—The amount of*
6 *the gross estate (determined without regard to this sub-*
7 *section) shall be increased by the amount of any tax paid*
8 *under chapter 12 by the decedent or his estate on any gift*
9 *made by the decedent or his spouse during the 3-year period*
10 *ending on the date of the decedent’s death.*

11 “(c) *OTHER RULES RELATING TO TRANSFERS WITHIN*
12 *3 YEARS OF DEATH.—*

13 “(1) *IN GENERAL.—For purposes of—*

14 “(A) *section 303(b) (relating to distribu-*
15 *tions in redemption of stock to pay death taxes),*

16 “(B) *section 2032A (relating to special*
17 *valuation of certain farms, etc., real property),*

18 *and*

19 “(C) *subchapter C of chapter 64 (relating to*
20 *lien for taxes),*

21 *the value of the gross estate shall include the value of*
22 *all property to the extent of any interest therein of*
23 *which the decedent has at any time made a transfer,*
24 *by trust or otherwise, during the 3-year period ending*
25 *on the date of the decedent’s death.*

1 “(2) *COORDINATION WITH SECTION 6166.*—An es-
2 *tate shall be treated as meeting the 35 percent of ad-*
3 *justed gross estate requirement of section 6166(a)(1)*
4 *only if the estate meets such requirement both with*
5 *and without the application of paragraph (1).*

6 “(3) *MARITAL AND SMALL TRANSFERS.*—Para-
7 *graph (1) shall not apply to any transfer (other than*
8 *a transfer with respect to a life insurance policy)*
9 *made during a calendar year to any donee if the dece-*
10 *dent was not required by section 6019 (other than by*
11 *reason of section 6019(2)) to file any gift tax return*
12 *for such year with respect to transfers to such donee.*

13 “(d) *EXCEPTION.*—Subsection (a) shall not apply to
14 *any bona fide sale for an adequate and full consideration*
15 *in money or money’s worth.*

16 “(e) *TREATMENT OF CERTAIN TRANSFERS FROM REV-*
17 *OCABLE TRUSTS.*—For purposes of this section and section
18 2038, any transfer from any portion of a trust during any
19 period that such portion was treated under section 676 as
20 owned by the decedent by reason of a power in the grantor
21 (determined without regard to section 672(e)) shall be treat-
22 ed as a transfer made directly by the decedent.”

23 “(b) *CLERICAL AMENDMENT.*—The table of sections for
24 part III of subchapter A of chapter 11 is amended by strik-

1 ing “gifts” in the item relating to section 2035 and insert-
2 ing “certain gifts”.

3 (c) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to the estates of decedents dying after
5 the date of the enactment of this Act.

6 **SEC. 11613. CLARIFICATION OF QUALIFIED TERMINABLE IN-**
7 **TEREST RULES.**

8 (a) *GENERAL RULE.*—

9 (1) *ESTATE TAX.*—Subparagraph (B) of section
10 2056(b)(7) (defining qualified terminable interest
11 property) is amended by adding at the end the follow-
12 ing new clause:

13 “(vi) *TREATMENT OF CERTAIN INCOME*
14 *DISTRIBUTIONS.*—An income interest shall
15 not fail to qualify as a qualified income in-
16 terest for life solely because income for the
17 period after the last distribution date and
18 on or before the date of the surviving
19 spouse’s death is not required to be distrib-
20 uted to the surviving spouse or to the estate
21 of the surviving spouse.”

22 (2) *GIFT TAX.*—Paragraph (3) of section 2523(f)
23 is amended by striking “and (iv)” and inserting
24 “(iv), and (vi)”.

1 (b) *CLARIFICATION OF SUBSEQUENT INCLUSIONS.*—
2 Section 2044 is amended by adding at the end the following
3 new subsection:

4 “(d) *CLARIFICATION OF INCLUSION OF CERTAIN IN-*
5 *COME.*—The amount included in the gross estate under sub-
6 section (a) shall include the amount of any income from
7 the property to which this section applies for the period
8 after the last distribution date and on or before the date
9 of the decedent’s death if such income is not otherwise in-
10 cluded in the decedent’s gross estate.”

11 (c) *EFFECTIVE DATE.*—

12 (1) *IN GENERAL.*—The amendments made by
13 this section shall apply with respect to the estates of
14 decedents dying, and gifts made, after the date of the
15 enactment of this Act.

16 (2) *APPLICATION OF SECTION 2044 TO TRANS-*
17 *FERS BEFORE DATE OF ENACTMENT.*—In the case of
18 the estate of any decedent dying after the date of the
19 enactment of this Act, if there was a transfer of prop-
20 erty on or before such date—

21 (A) such property shall not be included in
22 the gross estate of the decedent under section
23 2044 of the Internal Revenue Code of 1986 if no
24 prior marital deduction was allowed with respect

1 to such a transfer of such property to the dece-
2 dent, but

3 (B) such property shall be so included if
4 such a deduction was allowed.

5 **SEC. 11614. TRANSITIONAL RULE UNDER SECTION 2056A.**

6 (a) *GENERAL RULE.*—In the case of any trust created
7 under an instrument executed before the date of the enact-
8 ment of the Revenue Reconciliation Act of 1990, such trust
9 shall be treated as meeting the requirements of paragraph
10 (1) of section 2056A(a) of the Internal Revenue Code of
11 1986 if the trust instrument requires that all trustees of
12 the trust be individual citizens of the United States or do-
13 mestic corporations.

14 (b) *EFFECTIVE DATE.*—The provisions of subsection
15 (a) shall take effect as if included in the provisions of sec-
16 tion 11702(g) of the Revenue Reconciliation Act of 1990.

17 **SEC. 11615. OPPORTUNITY TO CORRECT CERTAIN FAILURES**
18 **UNDER SECTION 2032A.**

19 (a) *GENERAL RULE.*—Paragraph (3) of section
20 2032A(d) (relating to modification of election and agree-
21 ment to be permitted) is amended to read as follows:

22 “(3) *MODIFICATION OF ELECTION AND AGREE-*
23 *MENT TO BE PERMITTED.*—The Secretary shall pre-
24 scribe procedures which provide that in any case in
25 which the executor makes an election under para-

1 *graph (1) (and submits the agreement referred to in*
2 *paragraph (2)) within the time prescribed therefor,*
3 *but—*

4 *“(A) the notice of election, as filed, does not*
5 *contain all required information, or*

6 *“(B) signatures of 1 or more persons re-*
7 *quired to enter into the agreement described in*
8 *paragraph (2) are not included on the agreement*
9 *as filed, or the agreement does not contain all re-*
10 *quired information,*

11 *the executor will have a reasonable period of time (not*
12 *exceeding 90 days) after notification of such failures*
13 *to provide such information or signatures.”*

14 *(b) EFFECTIVE DATE.—The amendment made by sub-*
15 *section (a) shall apply to the estates of decedents dying after*
16 *the date of the enactment of this Act.*

17 **SEC. 11616. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX**

18 **PURPOSES AFTER EXPIRATION OF STATUTE**

19 **OF LIMITATIONS.**

20 *(a) IN GENERAL.—Section 2001 (relating to imposi-*
21 *tion and rate of estate tax) is amended by adding at the*
22 *end the following new subsection:*

23 *“(f) VALUATION OF GIFTS.—If—*

24 *“(1) the time has expired within which a tax*
25 *may be assessed under chapter 12 (or under cor-*

1 *responding provisions of prior laws) on the transfer*
2 *of property by gift made during a preceding calendar*
3 *period (as defined in section 2502(b)), and*

4 *“(2) the value of such gift is shown on the return*
5 *for such preceding calendar period or is disclosed in*
6 *such return, or in a statement attached to the return,*
7 *in a manner adequate to apprise the Secretary of the*
8 *nature of such gift,*

9 *the value of such gift shall, for purposes of computing the*
10 *tax under this chapter, be the value of such gift as finally*
11 *determined for purposes of chapter 12.”*

12 *(b) MODIFICATION OF APPLICATION OF STATUTE OF*
13 *LIMITATIONS.—Paragraph (9) of section 6501(c) is amend-*
14 *ed to read as follows:*

15 *“(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN*
16 *ON RETURN.—If any gift of property the value of*
17 *which (or any increase in taxable gifts required under*
18 *section 2701(d)) is required to be shown on a return*
19 *of tax imposed by chapter 12 (without regard to sec-*
20 *tion 2503(b)), and is not shown on such return, any*
21 *tax imposed by chapter 12 on such gift may be as-*
22 *essed, or a proceeding in court for the collection of*
23 *such tax may be begun without assessment, at any*
24 *time. The preceding sentence shall not apply to any*
25 *item which is disclosed in such return, or in a state-*

1 *ment attached to the return, in a manner adequate to*
 2 *apprise the Secretary of the nature of such item. The*
 3 *value of any item which is so disclosed may not be*
 4 *redetermined by the Secretary after the expiration of*
 5 *the period under subsection (a).”*

6 *(c) DECLARATORY JUDGMENT PROCEDURE FOR DE-*
 7 *TERMINING VALUE OF GIFT.—*

8 *(1) IN GENERAL.—Part IV of subchapter C of*
 9 *chapter 76 is amended by inserting after section 7476*
 10 *the following new section:*

11 **“SEC. 7477. DECLARATORY JUDGMENTS RELATING TO**
 12 **VALUE OF CERTAIN GIFTS.**

13 *“(a) CREATION OF REMEDY.—In a case of an actual*
 14 *controversy involving a determination by the Secretary of*
 15 *the value of any gift shown on the return of tax imposed*
 16 *by chapter 12 or disclosed on such return or in any state-*
 17 *ment attached to such return, upon the filing of an appro-*
 18 *priate pleading, the Tax Court may make a declaration of*
 19 *the value of such gift. Any such declaration shall have the*
 20 *force and effect of a decision of the Tax Court and shall*
 21 *be reviewable as such.*

22 *“(b) LIMITATIONS.—*

23 *“(1) PETITIONER.—A pleading may be filed*
 24 *under this section only by the donor.*

1 “(2) *EXHAUSTION OF ADMINISTRATIVE REM-*
2 *EDIES.*—*The court shall not issue a declaratory judg-*
3 *ment or decree under this section in any proceeding*
4 *unless it determines that the petitioner has exhausted*
5 *all available administrative remedies within the In-*
6 *ternal Revenue Service.*

7 “(3) *TIME FOR BRINGING ACTION.*—*If the Sec-*
8 *retary sends by certified or registered mail notice of*
9 *his determination as described in subsection (a) to the*
10 *petitioner, no proceeding may be initiated under this*
11 *section unless the pleading is filed before the 91st day*
12 *after the date of such mailing.”*

13 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
14 *tions for such part IV is amended by inserting after*
15 *the item relating to section 7476 the following new*
16 *item:*

“Sec. 7477. *Declaratory judgments relating to value of certain*
gifts.”

17 (d) *CONFORMING AMENDMENT.*—*Subsection (c) of sec-*
18 *tion 2504 is amended by striking “, and if a tax under*
19 *this chapter or under corresponding provisions of prior*
20 *laws has been assessed or paid for such preceding calendar*
21 *period”.*

22 (e) *EFFECTIVE DATES.*—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *subsections (a) and (c) shall apply to gifts made after*
3 *the date of the enactment of this Act.*

4 (2) *SUBSECTION (b).*—*The amendment made by*
5 *subsection (b) shall apply to gifts made in calendar*
6 *years ending after the date of the enactment of this*
7 *Act.*

8 ***SEC. 11617. CLARIFICATIONS RELATING TO DISCLAIMERS.***

9 (a) *PARTIAL TRANSFER-TYPE DISCLAIMERS PER-*
10 *MITTED.*—*Paragraph (3) of section 2518(c) (relating to cer-*
11 *tain transfers treated as disclaimers) is amended by insert-*
12 *ing “(or an undivided portion of such interest)” after “en-*
13 *tire interest in the property”.*

14 (b) *RETENTION OF INTEREST BY DECEDENT’S SPOUSE*
15 *PERMITTED IN TRANSFER-TYPE DISCLAIMERS.*—*Para-*
16 *graph (3) of section 2518(c) is amended by adding at the*
17 *end the following new flush sentence:*

18 *“For purposes of the preceding sentence, a written*
19 *transfer by the spouse of the decedent of property to*
20 *a trust shall not fail to be treated as a transfer of*
21 *such spouse’s interest in such property by reason of*
22 *such spouse having an interest in such trust.”*

23 (c) *DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX*
24 *PURPOSES.*—*Subsection (a) of section 2518 is amended by*

1 inserting “and subtitle A” after “this subtitle” each place
2 it appears.

3 (d) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to transfers creating an interest in the
5 person disclaiming, and disclaimers, made after the date
6 of the enactment of this Act.

7 **SEC. 11618. CLARIFICATION OF TREATMENT OF SURVIVOR**
8 **ANNUITIES UNDER QUALIFIED TERMINABLE**
9 **INTEREST RULES.**

10 (a) *IN GENERAL.*—Subparagraph (C) of section
11 2056(b)(7) is amended by inserting “(or, in the case of an
12 interest in an annuity arising under the community prop-
13 erty laws of a State, included in the gross estate of the dece-
14 dent under section 2033)” after “section 2039”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this
16 section shall apply to estates of decedents dying after the
17 date of the enactment of this Act.

18 **SEC. 11619. TREATMENT UNDER QUALIFIED DOMESTIC**
19 **TRUST RULES OF FORMS OF OWNERSHIP**
20 **WHICH ARE NOT TRUSTS.**

21 (a) *IN GENERAL.*—Subsection (c) of section 2056A (de-
22 fining qualified domestic trust) is amended by adding at
23 the end the following new paragraph:

24 “(3) *TRUST.*—To the extent provided in regula-
25 tions prescribed by the Secretary, the term ‘trust’ in-

1 *cludes other arrangements which have substantially*
 2 *the same effect as a trust.”*

3 *(b) EFFECTIVE DATE.—The amendment made by this*
 4 *section shall apply to estates of decedents dying after the*
 5 *date of the enactment of this Act.*

6 ***Subchapter C—Generation-Skipping Tax***
 7 ***Provisions***

8 ***SEC. 11631. TAXABLE TERMINATION NOT TO INCLUDE DI-***
 9 ***RECT SKIPS.***

10 *(a) IN GENERAL.—Paragraph (1) of section 2612(a)*
 11 *(defining taxable termination) is amended by adding at the*
 12 *end the following new flush sentence:*

13 *“Such term shall not include a direct skip.”*

14 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 15 *section (a) shall apply to generation-skipping transfers (as*
 16 *defined in section 2611 of the Internal Revenue Code of*
 17 *1986) after the date of the enactment of this Act.*

18 ***CHAPTER 7—EXCISE TAX SIMPLIFICATION***
 19 ***Subchapter A—Provisions Related to Distilled***
 20 ***Spirits, Wines, and Beer***

21 ***SEC. 11641. CREDIT OR REFUND FOR IMPORTED BOTTLED***
 22 ***DISTILLED SPIRITS RETURNED TO DISTILLED***
 23 ***SPIRITS PLANT.***

24 *(a) IN GENERAL.—Paragraph (1) of section 5008(c)*
 25 *(relating to distilled spirits returned to bonded premises)*

1 *is amended by striking “withdrawn from bonded premises*
 2 *on payment or determination of tax” and inserting “on*
 3 *which tax has been determined or paid”.*

4 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
 5 *section (a) shall take effect at the beginning of the first cal-*
 6 *endar quarter beginning more than 180 days after the date*
 7 *of the enactment of this Act.*

8 **SEC. 11642. FERMENTED MATERIAL FROM ANY BREWERY**
 9 **MAY BE RECEIVED AT A DISTILLED SPIRITS**
 10 **PLANT.**

11 **(a) IN GENERAL.**—*Paragraph (2) of section 5222(b)*
 12 *(relating to production, receipt, removal, and use of distill-*
 13 *ing materials) is amended to read as follows:*

14 “(2) *beer conveyed without payment of tax from*
 15 *brewery premises, beer which has been lawfully re-*
 16 *moved from brewery premises upon determination of*
 17 *tax, or”.*

18 **(b) CLARIFICATION OF AUTHORITY TO PERMIT RE-**
 19 **MOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS**
 20 **DISTILLING MATERIAL.**—*Section 5053 (relating to exemp-*
 21 *tions) is amended by redesignating subsection (f) as sub-*
 22 *section (i) and by inserting after subsection (e) the following*
 23 *new subsection:*

24 “(f) **REMOVAL FOR USE AS DISTILLING MATERIAL.**—
 25 *Subject to such regulations as the Secretary may prescribe,*

1 beer may be removed from a brewery without payment of
2 tax to any distilled spirits plant for use as distilling mate-
3 rial.”

4 (c) CLARIFICATION OF REFUND AND CREDIT OF
5 TAX.—Section 5056 (relating to refund and credit of tax,
6 or relief from liability) is amended—

7 (1) by redesignating subsection (c) as subsection
8 (d) and by inserting after subsection (b) the following
9 new subsection:

10 “(c) BEER RECEIVED AT A DISTILLED SPIRITS
11 PLANT.—Any tax paid by any brewer on beer produced in
12 the United States may be refunded or credited to the brewer,
13 without interest, or if the tax has not been paid, the brewer
14 may be relieved of liability therefor, under regulations as
15 the Secretary may prescribe, if such beer is received on the
16 bonded premises of a distilled spirits plant pursuant to the
17 provisions of section 5222(b)(2), for use in the production
18 of distilled spirits.”, and

19 (2) by striking “or rendering unmerchantable”
20 in subsection (d) (as so redesignated) and inserting
21 “rendering unmerchantable, or receipt on the bonded
22 premises of a distilled spirits plant”.

23 (d) EFFECTIVE DATE.—The amendments made by this
24 section shall take effect at the beginning of the first calendar

1 *quarter beginning more than 180 days after the date of the*
2 *enactment of this Act.*

3 **SEC. 11643. REFUND OF TAX ON WINE RETURNED TO BOND**
4 **NOT LIMITED TO UNMERCHANTABLE WINE.**

5 *(a) IN GENERAL.—Subsection (a) of section 5044 (re-*
6 *lating to refund of tax on unmerchantable wine) is amended*
7 *by striking “as unmerchantable”.*

8 *(b) CONFORMING AMENDMENTS.—*

9 *(1) Section 5361 is amended by striking*
10 *“unmerchantable”.*

11 *(2) The section heading for section 5044 is*
12 *amended by striking “**unmerchantable**”.*

13 *(3) The item relating to section 5044 in the table*
14 *of sections for subpart C of part I of subchapter A of*
15 *chapter 51 is amended by striking “unmerchantable”.*

16 *(c) EFFECTIVE DATE.—The amendments made by this*
17 *section shall take effect at the beginning of the first calendar*
18 *quarter beginning more than 180 days after the date of the*
19 *enactment of this Act.*

20 **SEC. 11644. BEER MAY BE WITHDRAWN FREE OF TAX FOR**
21 **DESTRUCTION.**

22 *(a) IN GENERAL.—Section 5053 is amended by insert-*
23 *ing after subsection (g) the following new subsection:*

24 *“(h) REMOVALS FOR DESTRUCTION.—Subject to such*
25 *regulations as the Secretary may prescribe, beer may be re-*

1 moved from the brewery without payment of tax for destruc-
2 tion.”

3 (b) *EFFECTIVE DATE.*—The amendment made by sub-
4 section (a) shall take effect at the beginning of the first cal-
5 endar quarter beginning more than 180 days after the date
6 of the enactment of this Act.

7 **SEC. 11645. TRANSFER TO BREWERY OF BEER IMPORTED IN**
8 **BULK WITHOUT PAYMENT OF TAX.**

9 (a) *IN GENERAL.*—Part II of subchapter G of chapter
10 51 is amended by adding at the end the following new sec-
11 tion:

12 **“SEC. 5418. BEER IMPORTED IN BULK.**

13 “Beer imported or brought into the United States in
14 bulk containers may, under such regulations as the Sec-
15 retary may prescribe, be withdrawn from customs custody
16 and transferred in such bulk containers to the premises of
17 a brewery without payment of the internal revenue tax im-
18 posed on such beer. The proprietor of a brewery to which
19 such beer is transferred shall become liable for the tax on
20 the beer withdrawn from customs custody under this section
21 upon release of the beer from customs custody, and the im-
22 porter, or the person bringing such beer into the United
23 States, shall thereupon be relieved of the liability for such
24 tax.”

1 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *such part II is amended by adding at the end the following*
 3 *new item:*

“Sec. 5418. Beer imported in bulk.”

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall take effect at the beginning of the first calendar*
 6 *quarter beginning more than 180 days after the date of the*
 7 *enactment of this Act.*

8 ***Subchapter B—Consolidation of Taxes on***
 9 ***Aviation Gasoline***

10 ***SEC. 11651. CONSOLIDATION OF TAXES ON AVIATION GASO-***
 11 ***LINE.***

12 (a) *IN GENERAL.*—*Subparagraph (A) of section*
 13 *4081(a)(2) (relating to imposition of tax on gasoline and*
 14 *diesel fuel) is amended by redesignating clause (ii) as clause*
 15 *(iii) and by striking clause (i) and inserting the following:*

16 *“(i) in the case of gasoline other than*
 17 *aviation gasoline, 18.3 cents per gallon,*

18 *“(ii) in the case of aviation gasoline,*
 19 *19.3 cents per gallon, and”.*

20 (b) *TERMINATION.*—*Subsection (d) of section 4081 is*
 21 *amended by redesignating paragraph (2) as paragraph (3)*
 22 *and by inserting after paragraph (1) the following new*
 23 *paragraph:*

1 “(2) *AVIATION GASOLINE.*—*On and after Janu-*
2 *ary 1, 1996, the rate specified in subsection*
3 *(a)(2)(A)(i) shall be 4.3 cents per gallon.*”

4 *(c) REPEAL OF RETAIL LEVEL TAX.*—

5 (1) *Subsection (c) of section 4041 is amended by*
6 *striking paragraphs (2) and (3) and by redesignating*
7 *paragraphs (4) and (5) as paragraphs (2) and (3),*
8 *respectively.*

9 (2) *Paragraph (3) of section 4041(c), as redesign-*
10 *ated by paragraph (1), is amended by striking*
11 *“paragraphs (1) and (2)” and inserting “paragraph*
12 *(1)”.*

13 *(d) CONFORMING AMENDMENTS.*—

14 (1) *Paragraph (1) of section 4041(k) is amended*
15 *by adding “and” at the end of subparagraph (A), by*
16 *striking “, and” at the end of subparagraph (B) and*
17 *inserting a period, and by striking subparagraph (C).*

18 (2) *Paragraph (1) of section 4081(d) is amended*
19 *by striking “each rate of tax specified in subsection*
20 *(a)(2)(A)” and inserting “the rates of tax specified in*
21 *clauses (i) and (iii) of subsection (a)(2)(A)”.*

22 (3) *Sections 6421(f)(2)(A) and 9502(f)(1)(A) are*
23 *each amended by striking “section 4041(c)(4)” and*
24 *inserting “section 4041(c)(2)”.*

1 (4) Paragraph (2) of section 9502(b) is amended
2 by striking “14 cents” and inserting “15 cents”.

3 (e) *EFFECTIVE DATE.*—The amendments made by this
4 section shall take effect on January 1, 1996.

5 (f) *FLOOR STOCKS TAX.*—

6 (1) *IMPOSITION OF TAX.*—In the case of aviation
7 gasoline on which tax was imposed under section
8 4081 of the Internal Revenue Code of 1986 before
9 January 1, 1996, and which is held on such date by
10 any person, there is hereby imposed a floor stocks tax
11 of 1 cent per gallon of such gasoline.

12 (2) *LIABILITY FOR TAX AND METHOD OF PAY-*
13 *MENT.*—

14 (A) *LIABILITY FOR TAX.*—A person holding
15 aviation gasoline on January 1, 1996, to which
16 the tax imposed by paragraph (1) applies shall
17 be liable for such tax.

18 (B) *METHOD OF PAYMENT.*—The tax im-
19 posed by paragraph (1) shall be paid in such
20 manner as the Secretary shall prescribe.

21 (C) *TIME FOR PAYMENT.*—The tax imposed
22 by paragraph (1) shall be paid on or before June
23 30, 1996.

24 (3) *DEFINITIONS.*—For purposes of this sub-
25 section:

1 (A) *HELD BY A PERSON.*—*Gasoline shall be*
2 *considered as “held by a person” if title thereto*
3 *has passed to such person (whether or not deliv-*
4 *ery to the person has been made).*

5 (B) *SECRETARY.*—*The term “Secretary”*
6 *means the Secretary of the Treasury or his dele-*
7 *gate.*

8 (4) *EXCEPTION FOR EXEMPT USES.*—*The tax*
9 *imposed by paragraph (1) shall not apply to gasoline*
10 *held by any person exclusively for any use to the ex-*
11 *tent a credit or refund of the tax imposed by section*
12 *4081 of such Code is allowable for such use.*

13 (5) *EXCEPTION FOR FUEL HELD IN AIRCRAFT*
14 *TANK.*—*No tax shall be imposed by paragraph (1) on*
15 *aviation gasoline held in the tank of an aircraft.*

16 (6) *EXCEPTION FOR CERTAIN AMOUNTS OF*
17 *FUEL.*—

18 (A) *IN GENERAL.*—*No tax shall be imposed*
19 *by paragraph (1) on aviation gasoline held on*
20 *January 1, 1996, by any person if the aggregate*
21 *amount of aviation gasoline held by such person*
22 *on such date does not exceed 6,000 gallons. The*
23 *preceding sentence shall apply only if such per-*
24 *son submits to the Secretary (at the time and in*
25 *the manner required by the Secretary) such in-*

1 *formation as the Secretary shall require for pur-*
2 *poses of this paragraph.*

3 (B) *EXEMPT FUEL.*—*For purposes of sub-*
4 *paragraph (A), there shall not be taken into ac-*
5 *count fuel held by any person which is exempt*
6 *from the tax imposed by paragraph (1) by rea-*
7 *son of paragraph (4) or (5).*

8 (C) *CONTROLLED GROUPS.*—

9 (i) *CORPORATIONS.*—*In the case of a*
10 *controlled group, the 6,000 gallon amount*
11 *in subparagraph (A) shall be apportioned*
12 *among the component members of such*
13 *group in such manner as the Secretary*
14 *shall by regulations prescribe. For purposes*
15 *of the preceding sentence, the term “con-*
16 *trolled group” has the meaning given to*
17 *such term by subsection (a) of section 1563*
18 *of such Code; except that for such purposes*
19 *the phrase “more than 50 percent” shall be*
20 *substituted for the phrase “at least 80 per-*
21 *cent” each place it appears in such sub-*
22 *section.*

23 (ii) *NONINCORPORATED PERSONS*
24 *UNDER COMMON CONTROL.*—*Under regula-*
25 *tions prescribed by the Secretary, principles*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect on the date of the enactment of this*
3 *Act.*

4 **CHAPTER 8—ADMINISTRATIVE PROVISION**

5 **SEC. 11671. CERTAIN NOTICES DISREGARDED UNDER PRO-**
6 **VISION INCREASING INTEREST RATE ON**
7 **LARGE CORPORATE UNDERPAYMENTS.**

8 (a) *GENERAL RULE.*—*Subparagraph (B) of section*
9 *6621(c)(2) (defining applicable date) is amended by adding*
10 *at the end the following new clause:*

11 “(iii) *EXCEPTION FOR LETTERS OR*
12 *NOTICES INVOLVING SMALL AMOUNTS.*—*For*
13 *purposes of this paragraph, any letter or*
14 *notice shall be disregarded if the amount of*
15 *the deficiency or proposed deficiency (or the*
16 *assessment or proposed assessment) set forth*
17 *in such letter or notice is not greater than*
18 *\$100,000 (determined by not taking into ac-*
19 *count any interest, penalties, or additions*
20 *to tax).”*

21 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
22 *section (a) shall apply for purposes of determining interest*
23 *for periods after December 31, 1995.*

1 **Subtitle K—Miscellaneous**
2 **Provisions**

3 **SEC. 11701. TREATMENT OF STORAGE OF PRODUCT SAM-**
4 **PLES.**

5 (a) *IN GENERAL.*—Paragraph (2) of section 280A(c)
6 is amended by striking “inventory” and inserting “inven-
7 tory or product samples”.

8 (b) *EFFECTIVE DATE.*—The amendment made by sub-
9 section (a) shall apply to taxable years beginning after De-
10 cember 31, 1995.

11 **SEC. 11702. ADJUSTMENT OF DEATH BENEFIT LIMITS FOR**
12 **CERTAIN POLICIES.**

13 (a) *IN GENERAL.*—Subparagraph (C)(i) of section
14 7702(e)(2) (relating to limited increases in death benefit
15 permitted) is amended by striking “\$5,000” and inserting
16 “\$7,000” and by striking “\$25,000” and inserting
17 “\$30,000”.

18 (b) *INFLATION ADJUSTMENTS.*—Section 7702(e) (re-
19 lating to computational rules) is amended by adding at the
20 end the following new paragraph:

21 “(3) *INFLATION ADJUSTMENT TO DEATH BENE-*
22 *FIT LIMITS FOR YEARS AFTER 1996.*—In the case of
23 any taxable year beginning in a calendar year after
24 1996, each dollar amount contained in paragraph
25 (2)(C)(i) shall be increased by an amount equal to—

1 “(A) such dollar amount, multiplied by
2 “(B) the cost-of-living adjustment deter-
3 mined under section 1(f)(3), for the calendar
4 year in which the taxable year begins, by sub-
5 stituting ‘calendar year 1995’ for ‘calendar year
6 1992’ in subparagraph (B) thereof.”.

7 (c) *CONFORMING AMENDMENT.*—Section 72(e)(10)(B)
8 is amended by striking “\$25,000” and inserting “\$30,000
9 (adjusted at the same time and in the same manner as
10 under section 7702(e)(3))”.

11 (d) *EFFECTIVE DATE.*—The amendments made by this
12 section shall apply to contracts entered into after December
13 31, 1995.

14 **SEC. 11703. ORGANIZATIONS SUBJECT TO SECTION 833.**

15 (a) *IN GENERAL.*—Section 833(c) (relating to organi-
16 zation to which section applies) is amended by adding at
17 the end the following new paragraph:

18 “(4) *TREATMENT AS EXISTING BLUE CROSS OR*
19 *BLUE SHIELD ORGANIZATION.*—

20 “(A) *IN GENERAL.*—Paragraph (2) shall be
21 applied to an organization described in subpara-
22 graph (B) as if it were a Blue Cross or Blue
23 Shield organization.

1 “(B) *APPLICABLE ORGANIZATION.*—An or-
2 ganization is described in this subparagraph if
3 it—

4 “(i) is organized under, and governed
5 by, State laws which are specifically and
6 exclusively applicable to not-for-profit
7 health insurance or health service type orga-
8 nizations, and

9 “(ii) is not a Blue Cross or Blue
10 Shield organization or health maintenance
11 organization.”.

12 (b) *EFFECTIVE DATE.*—The amendment made by this
13 section shall apply to taxable years ending after October
14 13, 1995.

15 **SEC. 11704. CORRECTION OF INFLATION ADJUSTMENT IN**
16 **LUXURY EXCISE TAX ON AUTOMOBILES.**

17 (a) *IN GENERAL.*—Subsection (e) of section 4001 (re-
18 lating to inflation adjustment) is amended to read as fol-
19 lows:

20 “(e) *INFLATION ADJUSTMENT.*—

21 “(1) *IN GENERAL.*—The \$30,000 amount in sub-
22 section (a) and section 4003(a) shall be increased by
23 an amount equal to—

24 “(A) \$30,000, multiplied by

1 *erences with respect to imports of products of such*
2 *countries;*

3 *“(3) the anticipated impact of such action on*
4 *United States producers of like or directly competitive*
5 *products; and*

6 *“(4) the extent of the beneficiary developing*
7 *country’s competitiveness with respect to eligible arti-*
8 *cles.*

9 **“SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING**
10 **COUNTRIES.**

11 *“(a) AUTHORITY TO DESIGNATE COUNTRIES.—*

12 *“(1) BENEFICIARY DEVELOPING COUNTRIES.—*
13 *The President is authorized to designate countries as*
14 *beneficiary developing countries for purposes of this*
15 *title.*

16 *“(2) LEAST-DEVELOPED BENEFICIARY DEVELOP-*
17 *ING COUNTRIES.—The President is authorized to des-*
18 *ignate any beneficiary developing country as a least-*
19 *developed beneficiary developing country for purposes*
20 *of this title, based on the considerations in section 501*
21 *and subsection (c) of this section.*

22 *“(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—*

23 *“(1) SPECIFIC COUNTRIES.—The following coun-*
24 *tries may not be designated as beneficiary developing*
25 *countries for purposes of this title:*

1 “(A) *Australia.*

2 “(B) *Canada.*

3 “(C) *European Union member states.*

4 “(D) *Iceland.*

5 “(E) *Japan.*

6 “(F) *Monaco.*

7 “(G) *New Zealand.*

8 “(H) *Norway.*

9 “(I) *Switzerland.*

10 “(2) *OTHER BASES FOR INELIGIBILITY.—The*
11 *President shall not designate any country a bene-*
12 *ficiary developing country under this title if any of*
13 *the following applies:*

14 “(A) *Such country is a Communist country,*
15 *unless—*

16 “(i) *the products of such country re-*
17 *ceive nondiscriminatory treatment,*

18 “(ii) *such country is a WTO Member*
19 *(as such term is defined in section 2(10) of*
20 *the Uruguay Round Agreements Act) (19*
21 *U.S.C. 3501(10)) and a member of the*
22 *International Monetary Fund, and*

23 “(iii) *such country is not dominated or*
24 *controlled by international communism.*

1 “(B) Such country is a party to an ar-
2 rangement of countries and participates in any
3 action pursuant to such arrangement, the effect
4 of which is—

5 “(i) to withhold supplies of vital com-
6 modity resources from international trade
7 or to raise the price of such commodities to
8 an unreasonable level, and

9 “(ii) to cause serious disruption of the
10 world economy.

11 “(C) Such country affords preferential
12 treatment to the products of a developed country,
13 other than the United States, which has, or is
14 likely to have, a significant adverse effect on
15 United States commerce.

16 “(D)(i) Such country—

17 “(I) has nationalized, expropriated, or
18 otherwise seized ownership or control of
19 property, including patents, trademarks, or
20 copyrights, owned by a United States citi-
21 zen or by a corporation, partnership, or as-
22 sociation which is 50 percent or more bene-
23 ficially owned by United States citizens,

24 “(II) has taken steps to repudiate or
25 nullify an existing contract or agreement

1 *with a United States citizen or a corpora-*
2 *tion, partnership, or association which is 50*
3 *percent or more beneficially owned by Unit-*
4 *ed States citizens, the effect of which is to*
5 *nationalize, expropriate, or otherwise seize*
6 *ownership or control of property, including*
7 *patents, trademarks, or copyrights, so*
8 *owned, or*

9 *“(III) has imposed or enforced taxes or*
10 *other exactions, restrictive maintenance or*
11 *operational conditions, or other measures*
12 *with respect to property, including patents,*
13 *trademarks, or copyrights, so owned, the ef-*
14 *fect of which is to nationalize, expropriate,*
15 *or otherwise seize ownership or control of*
16 *such property,*

17 *unless clause (ii) applies.*

18 *“(ii) This clause applies if the President de-*
19 *termines that—*

20 *“(I) prompt, adequate, and effective*
21 *compensation has been or is being made to*
22 *the citizen, corporation, partnership, or as-*
23 *sociation referred to in clause (i),*

24 *“(II) good faith negotiations to provide*
25 *prompt, adequate, and effective compensa-*

1 *tion under the applicable provisions of*
2 *international law are in progress, or the*
3 *country described in clause (i) is otherwise*
4 *taking steps to discharge its obligations*
5 *under international law with respect to*
6 *such citizen, corporation, partnership, or*
7 *association, or*

8 *“(III) a dispute involving such citizen,*
9 *corporation, partnership, or association*
10 *over compensation for such a seizure has*
11 *been submitted to arbitration under the pro-*
12 *visions of the Convention for the Settlement*
13 *of Investment Disputes, or in another mutu-*
14 *ally agreed upon forum,*

15 *and the President promptly furnishes a copy of*
16 *such determination to the Senate and House of*
17 *Representatives.*

18 *“(E) Such country fails to act in good faith*
19 *in recognizing as binding or in enforcing arbi-*
20 *tral awards in favor of United States citizens or*
21 *a corporation, partnership, or association which*
22 *is 50 percent or more beneficially owned by*
23 *United States citizens, which have been made by*
24 *arbitrators appointed for each case or by perma-*

1 *ment arbitral bodies to which the parties involved*
2 *have submitted their dispute.*

3 “(F) *Such country aids or abets, by grant-*
4 *ing sanctuary from prosecution to, any individ-*
5 *ual or group which has committed an act of*
6 *international terrorism.*

7 “(G) *Such country has not taken or is not*
8 *taking steps to afford internationally recognized*
9 *worker rights to workers in the country (includ-*
10 *ing any designated zone in that country).*

11 *Subparagraphs (D), (E), (F), and (G) shall not pre-*
12 *vent the designation of any country as a beneficiary*
13 *developing country under this title if the President*
14 *determines that such designation will be in the na-*
15 *tional economic interest of the United States and re-*
16 *ports such determination to the Congress with the rea-*
17 *sons therefor.*

18 “(c) *FACTORS AFFECTING COUNTRY DESIGNATION.—*
19 *In determining whether to designate any country as a bene-*
20 *ficiary developing country under this title, the President*
21 *shall take into account—*

22 “(1) *an expression by such country of its desire*
23 *to be so designated;*

24 “(2) *the level of economic development of such*
25 *country, including its per capita gross national prod-*

1 *uct, the living standards of its inhabitants, and any*
2 *other economic factors which the President deems ap-*
3 *propriate;*

4 *“(3) whether or not other major developed coun-*
5 *tries are extending generalized preferential tariff*
6 *treatment to such country;*

7 *“(4) the extent to which such country has as-*
8 *suured the United States that it will provide equitable*
9 *and reasonable access to the markets and basic com-*
10 *modity resources of such country and the extent to*
11 *which such country has assured the United States*
12 *that it will refrain from engaging in unreasonable ex-*
13 *port practices;*

14 *“(5) the extent to which such country is provid-*
15 *ing adequate and effective protection of intellectual*
16 *property rights;*

17 *“(6) the extent to which such country has taken*
18 *action to—*

19 *“(A) reduce trade distorting investment*
20 *practices and policies (including export perform-*
21 *ance requirements); and*

22 *“(B) reduce or eliminate barriers to trade*
23 *in services; and*

24 *“(7) whether or not such country has taken or is*
25 *taking steps to afford to workers in that country (in-*

1 *cluding any designated zone in that country) inter-*
2 *nationally recognized worker rights.*

3 *“(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF*
4 *COUNTRY DESIGNATION.—*

5 *“(1) IN GENERAL.—The President may with-*
6 *draw, suspend, or limit the application of the duty-*
7 *free treatment accorded under this title with respect*
8 *to any country. In taking any action under this sub-*
9 *section, the President shall consider the factors set*
10 *forth in section 501 and subsection (c) of this section.*

11 *“(2) CHANGED CIRCUMSTANCES.—The President*
12 *shall, after complying with the requirements of sub-*
13 *section (f)(2), withdraw or suspend the designation of*
14 *any country as a beneficiary developing country if,*
15 *after such designation, the President determines that*
16 *as the result of changed circumstances such country*
17 *would be barred from designation as a beneficiary de-*
18 *veloping country under subsection (b)(2). Such coun-*
19 *try shall cease to be a beneficiary developing country*
20 *on the day on which the President issues an Executive*
21 *order or Presidential proclamation revoking the des-*
22 *ignation of such country under this title.*

23 *“(3) ADVICE TO CONGRESS.—The President*
24 *shall, as necessary, advise the Congress on the appli-*
25 *cation of section 501 and subsection (c) of this sec-*

1 *tion, and the actions the President has taken to with-*
2 *draw, to suspend, or to limit the application of duty-*
3 *free treatment with respect to any country which has*
4 *failed to adequately take the actions described in sub-*
5 *section (c).*

6 “(e) *MANDATORY GRADUATION OF BENEFICIARY DE-*
7 *VELOPING COUNTRIES.—If the President determines that a*
8 *beneficiary developing country has become a ‘high income’*
9 *country, as defined by the official statistics of the Inter-*
10 *national Bank for Reconstruction and Development, then*
11 *the President shall terminate the designation of such coun-*
12 *try as a beneficiary developing country for purposes of this*
13 *title, effective on January 1 of the second year following*
14 *the year in which such determination is made.*

15 “(f) *CONGRESSIONAL NOTIFICATION.—*

16 “(1) *NOTIFICATION OF DESIGNATION.—*

17 “(A) *IN GENERAL.—Before the President*
18 *designates any country as a beneficiary develop-*
19 *ing country under this title, the President shall*
20 *notify the Congress of the President’s intention to*
21 *make such designation, together with the consid-*
22 *erations entering into such decision.*

23 “(B) *DESIGNATION AS LEAST-DEVELOPED*
24 *BENEFICIARY DEVELOPING COUNTRY.—At least*
25 *60 days before the President designates any*

1 *country as a least-developed beneficiary develop-*
2 *ing country, the President shall notify the Con-*
3 *gress of the President's intention to make such*
4 *designation.*

5 “(2) *NOTIFICATION OF TERMINATION.*—*If the*
6 *President has designated any country as a beneficiary*
7 *developing country under this title, the President*
8 *shall not terminate such designation unless, at least*
9 *60 days before such termination, the President has*
10 *notified the Congress and has notified such country of*
11 *the President's intention to terminate such designa-*
12 *tion, together with the considerations entering into*
13 *such decision.*

14 **“SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.**

15 “(a) *ELIGIBLE ARTICLES.*—

16 “(1) *DESIGNATION.*—

17 “(A) *IN GENERAL.*—*Except as provided in*
18 *subsection (b), the President is authorized to des-*
19 *ignate articles as eligible articles from all bene-*
20 *ficiary developing countries for purposes of this*
21 *title by Executive order or Presidential procla-*
22 *mation after receiving the advice of the Inter-*
23 *national Trade Commission in accordance with*
24 *subsection (e).*

1 “(B) *LEAST-DEVELOPED BENEFICIARY DE-*
2 *VELOPING COUNTRIES.*—*Except for articles de-*
3 *scribed in subparagraphs (A), (B), and (E) of*
4 *subsection (b)(1) and articles described in para-*
5 *graphs (2) and (3) of subsection (b), the Presi-*
6 *dent may, in carrying out section 502(d)(1) and*
7 *subsection (c)(1) of this section, designate articles*
8 *as eligible articles only for countries designated*
9 *as least-developed beneficiary developing coun-*
10 *tries under section 502(a)(2) if, after receiving*
11 *the advice of the International Trade Commis-*
12 *sion in accordance with subsection (e) of this sec-*
13 *tion, the President determines that such articles*
14 *are not import-sensitive in the context of imports*
15 *from least-developed beneficiary developing coun-*
16 *tries.*

17 “(C) *THREE-YEAR RULE.*—*If, after receiv-*
18 *ing the advice of the International Trade Com-*
19 *mission under subsection (e), an article has been*
20 *formally considered for designation as an eligible*
21 *article under this title and denied such designa-*
22 *tion, such article may not be reconsidered for*
23 *such designation for a period of 3 years after*
24 *such denial.*

25 “(2) *RULE OF ORIGIN.*—

1 “(A) *GENERAL RULE.*—*The duty-free treat-*
2 *ment provided under this title shall apply to any*
3 *eligible article which is the growth, product, or*
4 *manufacture of a beneficiary developing country*
5 *if—*

6 “(i) *that article is imported directly*
7 *from a beneficiary developing country into*
8 *the customs territory of the United States;*
9 *and*

10 “(ii) *the sum of—*

11 “(I) *the cost or value of the mate-*
12 *rials produced in the beneficiary devel-*
13 *oping country or any two or more such*
14 *countries that are members of the same*
15 *association of countries and are treated*
16 *as one country under section 507(2),*
17 *plus*

18 “(II) *the direct costs of processing*
19 *operations performed in such bene-*
20 *ficiary developing country or such*
21 *member countries,*

22 *is not less than 35 percent of the appraised*
23 *value of such article at the time it is en-*
24 *tered.*

1 “(B) *EXCLUSIONS.*—*An article shall not be*
2 *treated as the growth, product, or manufacture of*
3 *a beneficiary developing country by virtue of*
4 *having merely undergone—*

5 “(i) *simple combining or packaging*
6 *operations, or*

7 “(ii) *mere dilution with water or mere*
8 *dilution with another substance that does*
9 *not materially alter the characteristics of*
10 *the article.*

11 “(3) *REGULATIONS.*—*The Secretary of the Treas-*
12 *ury, after consulting with the United States Trade*
13 *Representative, shall prescribe such regulations as*
14 *may be necessary to carry out paragraph (2), includ-*
15 *ing, but not limited to, regulations providing that, in*
16 *order to be eligible for duty-free treatment under this*
17 *title, an article—*

18 “(A) *must be wholly the growth, product, or*
19 *manufacture of a beneficiary developing country,*
20 *or*

21 “(B) *must be a new or different article of*
22 *commerce which has been grown, produced, or*
23 *manufactured in the beneficiary developing*
24 *country.*

1 “(b) *ARTICLES THAT MAY NOT BE DESIGNATED AS*
2 *ELIGIBLE ARTICLES.*—

3 “(1) *IMPORT SENSITIVE ARTICLES.*—*The Presi-*
4 *dent may not designate any article as an eligible ar-*
5 *ticle under subsection (a) if such article is within one*
6 *of the following categories of import-sensitive articles:*

7 “(A) *Textile and apparel articles which*
8 *were not eligible articles for purposes of this title*
9 *on January 1, 1994, as this title was in effect*
10 *on such date.*

11 “(B) *Watches, except those watches entered*
12 *after June 30, 1989, that the President specifi-*
13 *cally determines, after public notice and com-*
14 *ment, will not cause material injury to watch or*
15 *watch band, strap, or bracelet manufacturing*
16 *and assembly operations in the United States or*
17 *the United States insular possessions.*

18 “(C) *Import-sensitive electronic articles.*

19 “(D) *Import-sensitive steel articles.*

20 “(E) *Footwear, handbags, luggage, flat*
21 *goods, work gloves, and leather wearing apparel*
22 *which were not eligible articles for purposes of*
23 *this title on January 1, 1995, as this title was*
24 *in effect on such date.*

1 “(F) *Import-sensitive semimanufactured*
2 *and manufactured glass products.*

3 “(G) *Any other articles which the President*
4 *determines to be import-sensitive in the context*
5 *of the Generalized System of Preferences.*

6 “(2) *ARTICLES AGAINST WHICH OTHER ACTIONS*
7 *TAKEN.—An article shall not be an eligible article for*
8 *purposes of this title for any period during which*
9 *such article is the subject of any action proclaimed*
10 *pursuant to section 203 of this Act (19 U.S.C. 2253)*
11 *or section 232 or 351 of the Trade Expansion Act of*
12 *1962 (19 U.S.C. 1862, 1981).*

13 “(3) *AGRICULTURAL PRODUCTS.—No quantity of*
14 *an agricultural product subject to a tariff-rate quota*
15 *that exceeds the in-quota quantity shall be eligible for*
16 *duty-free treatment under this title.*

17 “(c) *WITHDRAWAL, SUSPENSION, OR LIMITATION OF*
18 *DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITA-*
19 *TION.—*

20 “(1) *IN GENERAL.—The President may with-*
21 *draw, suspend, or limit the application of the duty-*
22 *free treatment accorded under this title with respect*
23 *to any article, except that no rate of duty may be es-*
24 *tablished with respect to any article pursuant to this*
25 *subsection other than the rate which would apply but*

1 *for this title. In taking any action under this sub-*
2 *section, the President shall consider the factors set*
3 *forth in sections 501 and 502(c).*

4 “(2) *COMPETITIVE NEED LIMITATION.—*

5 “(A) *BASIS FOR WITHDRAWAL OF DUTY-*
6 *FREE TREATMENT.—*

7 “(i) *IN GENERAL.—Except as provided*
8 *in clause (ii) and subject to subsection (d),*
9 *whenever the President determines that a*
10 *beneficiary developing country has exported*
11 *(directly or indirectly) to the United States*
12 *during any calendar year beginning after*
13 *December 31, 1995—*

14 “(I) *a quantity of an eligible arti-*
15 *cle having an appraised value in excess*
16 *of the applicable amount for the cal-*
17 *endar year, or*

18 “(II) *a quantity of an eligible ar-*
19 *ticle equal to or exceeding 50 percent of*
20 *the appraised value of the total im-*
21 *ports of that article into the United*
22 *States during any calendar year,*
23 *the President shall, not later than July 1 of*
24 *the next calendar year, terminate the duty-*

1 *free treatment for that article from that*
2 *beneficiary developing country.*

3 “(ii) *ANNUAL ADJUSTMENT OF APPLI-*
4 *CABLE AMOUNT.—For purposes of applying*
5 *clause (i), the applicable amount is—*

6 “(I) *for 1996, \$75,000,000, and*
7 “(II) *for each calendar year there-*
8 *after, an amount equal to the applica-*
9 *ble amount in effect for the preceding*
10 *calendar year plus \$5,000,000.*

11 “(B) *COUNTRY DEFINED.—For purposes of*
12 *this paragraph, the term ‘country’ does not in-*
13 *clude an association of countries which is treated*
14 *as one country under section 507(2), but does in-*
15 *clude a country which is a member of any such*
16 *association.*

17 “(C) *REDESIGNATIONS.—A country which*
18 *is no longer treated as a beneficiary developing*
19 *country with respect to an eligible article by rea-*
20 *son of subparagraph (A) may, subject to the con-*
21 *siderations set forth in sections 501 and 502, be*
22 *redesignated a beneficiary developing country*
23 *with respect to such article if imports of such ar-*
24 *article from such country did not exceed the limita-*

1 *tions in subparagraph (A) during the preceding*
2 *calendar year.*

3 “(D) *LEAST-DEVELOPED BENEFICIARY DE-*
4 *VELOPING COUNTRIES.*—Subparagraph (A) shall
5 *not apply to any least-developed beneficiary de-*
6 *veloping country.*

7 “(E) *ARTICLES NOT PRODUCED IN THE*
8 *UNITED STATES EXCLUDED.*—Subparagraph
9 *(A)(i)(II) shall not apply with respect to any eli-*
10 *gible article if a like or directly competitive arti-*
11 *cle was not produced in the United States on*
12 *January 1, 1995.*

13 “(F) *DE MINIMIS WAIVERS.*—

14 “(i) *IN GENERAL.*—The President may
15 *disregard subparagraph (A)(i)(II) with re-*
16 *spect to any eligible article from any bene-*
17 *ficiary developing country if the aggregate*
18 *appraised value of the imports of such arti-*
19 *cle into the United States during the pre-*
20 *ceding calendar year does not exceed the ap-*
21 *plicable amount for such preceding calendar*
22 *year.*

23 “(ii) *APPLICABLE AMOUNT.*—For pur-
24 *poses applying clause (i), the applicable*
25 *amount is—*

1 “(I) for calendar year 1995,
2 \$13,000,000, and

3 “(II) for each calendar year there-
4 after, an amount equal to the applica-
5 ble amount in effect for the preceding
6 calendar year plus \$500,000.

7 “(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

8 “(1) IN GENERAL.—The President may waive the
9 application of subsection (c)(2) with respect to any el-
10 igible article of any beneficiary developing country if,
11 before July 1 of the calendar year beginning after the
12 calendar year for which a determination described in
13 subsection (c)(2)(A) was made with respect to such el-
14 igible article, the President—

15 “(A) receives the advice of the International
16 Trade Commission under section 332 of the Tar-
17 iff Act of 1930 on whether any industry in the
18 United States is likely to be adversely affected by
19 such waiver,

20 “(B) determines, based on the consider-
21 ations described in sections 501 and 502(c) and
22 the advice described in subparagraph (A), that
23 such waiver is in the national economic interest
24 of the United States, and

1 “(C) publishes the determination described
2 in subparagraph (B) in the Federal Register.

3 “(2) CONSIDERATIONS BY THE PRESIDENT.—In
4 making any determination under paragraph (1), the
5 President shall give great weight to—

6 “(A) the extent to which the beneficiary de-
7 veloping country has assured the United States
8 that such country will provide equitable and rea-
9 sonable access to the markets and basic commod-
10 ity resources of such country, and

11 “(B) the extent to which such country pro-
12 vides adequate and effective protection of intellec-
13 tual property rights.

14 “(3) OTHER BASES FOR WAIVER.—The President
15 may waive the application of subsection (c)(2) if, be-
16 fore July 1 of the calendar year beginning after the
17 calendar year for which a determination described in
18 subsection (c)(2) was made with respect to a bene-
19 ficiary developing country, the President determines
20 that—

21 “(A) there has been a historical preferential
22 trade relationship between the United States and
23 such country,

1 “(B) *there is a treaty or trade agreement in*
2 *force covering economic relations between such*
3 *country and the United States, and*

4 “(C) *such country does not discriminate*
5 *against, or impose unjustifiable or unreasonable*
6 *barriers to, United States commerce,*

7 *and the President publishes that determination in the*
8 *Federal Register.*

9 “(4) *LIMITATIONS ON WAIVERS.—*

10 “(A) *IN GENERAL.—The President may not*
11 *exercise the waiver authority under this sub-*
12 *section with respect to a quantity of an eligible*
13 *article entered during any calendar year begin-*
14 *ning after 1995, the aggregate appraised value of*
15 *which equals or exceeds 30 percent of the aggre-*
16 *gate appraised value of all articles that entered*
17 *duty-free under this title during the preceding*
18 *calendar year.*

19 “(B) *OTHER WAIVER LIMITS.—The Presi-*
20 *dent may not exercise the waiver authority pro-*
21 *vided under this subsection with respect to a*
22 *quantity of an eligible article entered during any*
23 *calendar year beginning after 1995, the aggre-*
24 *gate appraised value of which exceeds 15 percent*
25 *of the aggregate appraised value of all articles*

1 *that have entered duty-free under this title dur-*
2 *ing the preceding calendar year from those bene-*
3 *ficiary developing countries which for the preced-*
4 *ing calendar year—*

5 “(i) *had a per capita gross national*
6 *product (calculated on the basis of the best*
7 *available information, including that of the*
8 *International Bank for Reconstruction and*
9 *Development) of \$5,000 or more; or*

10 “(ii) *had exported (either directly or*
11 *indirectly) to the United States a quantity*
12 *of articles that was duty-free under this title*
13 *that had an aggregate appraised value of*
14 *more than 10 percent of the aggregate ap-*
15 *praised value of all articles that entered*
16 *duty-free under this title during that year.*

17 “(C) *CALCULATION OF LIMITATIONS.—There*
18 *shall be counted against the limitations imposed*
19 *under subparagraphs (A) and (B) for any cal-*
20 *endar year only that value of any eligible article*
21 *of any country that—*

22 “(i) *entered duty-free under this title*
23 *during such calendar year; and*

24 “(ii) *is in excess of the value of that*
25 *article that would have been so entered dur-*

1 *ing such calendar year if the limitations*
2 *under subsection (c)(2)(A) applied.*

3 “(5) *EFFECTIVE PERIOD OF WAIVER.—Any*
4 *waiver granted under this subsection shall remain in*
5 *effect until the President determines that such waiver*
6 *is no longer warranted due to changed circumstances.*

7 “(e) *INTERNATIONAL TRADE COMMISSION ADVICE.—*
8 *Before designating articles as eligible articles under sub-*
9 *section (a)(1), the President shall publish and furnish the*
10 *International Trade Commission with lists of articles which*
11 *may be considered for designation as eligible articles for*
12 *purposes of this title. The provisions of sections 131, 132,*
13 *133, and 134 shall be complied with as though action under*
14 *section 501 and this section were action under section 123*
15 *to carry out a trade agreement entered into under section*
16 *123.*

17 “(f) *SPECIAL RULE CONCERNING PUERTO RICO.—No*
18 *action under this title may affect any tariff duty imposed*
19 *by the Legislature of Puerto Rico pursuant to section 319*
20 *of the Tariff Act of 1930 on coffee imported into Puerto*
21 *Rico.*

22 **“SEC. 504. REVIEW AND REPORTS TO CONGRESS.**

23 “*The President shall submit an annual report to the*
24 *Congress on the status of internationally recognized worker*
25 *rights within each beneficiary developing country.*

1 **“SEC. 505. DATE OF TERMINATION.**

2 *“No duty-free treatment provided under this title shall*
3 *remain in effect after December 31, 1996.*

4 **“SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DE-**
5 **VELOPING COUNTRIES.**

6 *“The appropriate agencies of the United States shall*
7 *assist beneficiary developing countries to develop and im-*
8 *plement measures designed to assure that the agricultural*
9 *sectors of their economies are not directed to export markets*
10 *to the detriment of the production of foodstuffs for their citi-*
11 *zenry.*

12 **“SEC. 507. DEFINITIONS.**

13 *“For purposes of this title:*

14 *“(1) BENEFICIARY DEVELOPING COUNTRY.—The*
15 *term ‘beneficiary developing country’ means any*
16 *country with respect to which there is in effect an Ex-*
17 *ecutive order or Presidential proclamation by the*
18 *President designating such country as a beneficiary*
19 *developing country for purposes of this title.*

20 *“(2) COUNTRY.—The term ‘country’ means any*
21 *foreign country or territory, including any overseas*
22 *dependent territory or possession of a foreign country,*
23 *or the Trust Territory of the Pacific Islands. In the*
24 *case of an association of countries which is a free*
25 *trade area or customs union, or which is contributing*
26 *to comprehensive regional economic integration*

1 *among its members through appropriate means, in-*
2 *cluding, but not limited to, the reduction of duties,*
3 *the President may by Executive order or Presidential*
4 *proclamation provide that all members of such asso-*
5 *ciation other than members which are barred from*
6 *designation under section 502(b) shall be treated as*
7 *one country for purposes of this title.*

8 “(3) *ENTERED.*—*The term ‘entered’ means en-*
9 *tered, or withdrawn from warehouse for consumption,*
10 *in the customs territory of the United States.*

11 “(4) *INTERNATIONALLY RECOGNIZED WORKER*
12 *RIGHTS.*—*The term ‘internationally recognized work-*
13 *er rights’ includes—*

14 “(A) *the right of association;*

15 “(B) *the right to organize and bargain col-*
16 *lectively;*

17 “(C) *a prohibition on the use of any form*
18 *of forced or compulsory labor;*

19 “(D) *a minimum age for the employment of*
20 *children; and*

21 “(E) *acceptable conditions of work with re-*
22 *spect to minimum wages, hours of work, and oc-*
23 *cupational safety and health.*

24 “(5) *LEAST-DEVELOPED BENEFICIARY DEVELOP-*
25 *ING COUNTRY.*—*The term ‘least-developed beneficiary*

1 “entry” includes a withdrawal from warehouse for con-
2 sumption.

3 (b) *REQUESTS*.—Liquidation or reliquidation may be
4 made under subsection (a) with respect to an entry only
5 if a request therefor is filed with the Customs Service, with-
6 in 180 days after the date of the enactment of this Act, that
7 contains sufficient information to enable the Customs Serv-
8 ice—

9 (1) to locate the entry; or

10 (2) to reconstruct the entry if it cannot be lo-
11 cated.

12 **SEC. 11804. CONFORMING AMENDMENTS.**

13 (a) *TRADE LAWS*.—

14 (1) Section 1211(b) of the Omnibus Trade and
15 Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is
16 amended—

17 (A) in paragraph (1), by striking “(19
18 U.S.C. 2463(a), 2464(c)(3))” and inserting “(as
19 in effect on July 31, 1995)”; and

20 (B) in paragraph (2), by striking “(19
21 U.S.C. 2464(c)(1))” and inserting the following:
22 “(as in effect on July 31, 1995)”.

23 (2) Section 203(c)(7) of the Andean Trade Pref-
24 erence Act (19 U.S.C. 3202(c)(7)) is amended by
25 striking “502(a)(4)” and inserting “507(4)”.

1 (3) *Section 212(b)(7) of the Caribbean Basin*
2 *Economic Recovery Act (19 U.S.C. 2702(b)(7)) is*
3 *amended by striking “502(a)(4)” and inserting*
4 *“507(4)”.*

5 (4) *General note 3(a)(iv)(C) of the Harmonized*
6 *Tariff Schedule of the United States is amended by*
7 *striking “sections 503(b) and 504(c)” and inserting*
8 *“subsections (a), (c), and (d) of section 503”.*

9 (5) *Section 201(a)(2) of the North American*
10 *Free Trade Agreement Implementation Act (19 U.S.C.*
11 *3331(a)(2)) is amended by striking “502(a)(2) of the*
12 *Trade Act of 1974 (19 U.S.C. 2462(a)(2))” and in-*
13 *serting “502(f)(2) of the Trade Act of 1974”.*

14 (6) *Section 131 of the Uruguay Round Agree-*
15 *ments Act (19 U.S.C. 3551) is amended in subsections*
16 *(a) and (b)(1) by striking “502(a)(4)” and inserting*
17 *“507(4)”.*

18 (b) *OTHER LAWS.—*

19 (1) *Section 871(f)(2)(B) of the Internal Revenue*
20 *Code of 1986 is amended by striking “within the*
21 *meaning of section 502” and inserting “under title*
22 *V”.*

23 (2) *Section 2202(8) of the Export Enhancement*
24 *Act of 1988 (15 U.S.C. 4711(8)) is amended by strik-*
25 *ing “502(a)(4)” and inserting “507(4)”.*

1 (3) *Section 231A(a) of the Foreign Assistance*
2 *Act of 1961 (22 U.S.C. 2191a(a)) is amended—*

3 (A) *in paragraph (1) by striking “502(a)(4)*
4 *of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))”*
5 *and inserting “507(4) of the Trade Act of 1974”;*

6 (B) *in paragraph (2) by striking “505(c) of*
7 *the Trade Act of 1974 (19 U.S.C. 2465(c))” and*
8 *inserting “504 of the Trade Act of 1974”; and*

9 (C) *in paragraph (4) by striking*
10 *“502(a)(4)” and inserting “507(4)”.*

11 (4) *Section 1621(a)(1) of the International Fi-*
12 *nancial Institutions Act (22 U.S.C. 262p–4p(a)(1)) is*
13 *amended by striking “502(a)(4)” and inserting*
14 *“507(4)”.*

15 (5) *Section 103B of the Agricultural Act of 1949*
16 *(7 U.S.C. 1444–2) is amended in subsections*
17 *(a)(5)(F)(v) and (n)(1)(C) by striking “503(d) of the*
18 *Trade Act of 1974 (19 U.S.C. 2463(d))” and inserting*
19 *“503(b)(3) of the Trade Act of 1974”.*

20 ***Subtitle M—Increase in Public Debt***
21 ***Limit***

22 ***SEC. 11901. INCREASE IN PUBLIC DEBT LIMIT.***

23 *Subsection (b) of section 3101 of title 31, United States*
24 *Code, is amended by striking the dollar amount contained*

1 *in the first sentence and inserting “\$5,500,000,000,000”*
 2 *and by striking the second sentence (if any).*

3 **TITLE XII—TEACHING HOS-**
 4 **PITALS AND GRADUATE MEDI-**
 5 **CAL EDUCATION; ASSET**
 6 **SALES; WELFARE; AND OTHER**
 7 **PROVISIONS**

8 **SEC. 12001. SHORT TITLE.**

9 *Subtitles A through K of this title may be cited as the*
 10 *“Personal Responsibility and Work Opportunity Act of*
 11 *1995”.*

12 **SEC. 12002. TABLE OF CONTENTS.**

13 *The table of contents of subtitles A through L of this*
 14 *title is as follows:*

Sec. 12001. Short title.

Sec. 12002. Table of contents.

Subtitle A—Block Grants for Temporary Assistance for Needy Families

Sec. 12100. References to the Social Security Act.

Sec. 12101. Block grants to States.

Sec. 12102. Report on data processing.

Sec. 12103. Conforming amendments to the Social Security Act.

Sec. 12104. Conforming amendments to the Food Stamp Act of 1977 and related provisions.

Sec. 12105. Conforming amendments to other laws.

Sec. 12106. Effective date; transition rule.

Subtitle B—Supplemental Security Income

Sec. 12200. Reference to Social Security Act.

CHAPTER 1—ELIGIBILITY RESTRICTIONS

Sec. 12201. Denial of supplemental security income benefits by reason of disability to drug addicts and alcoholics.

Sec. 12202. 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.

Sec. 12203. Denial of SSI benefits for fugitive felons and probation and parole violators.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

- Sec. 12211. Definition and eligibility rules.*
- Sec. 12212. Eligibility redeterminations and continuing disability reviews.*
- Sec. 12213. Additional accountability requirements.*
- Sec. 12214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.*
- Sec. 12215. Regulations.*

Subtitle C—Child Support

- Sec. 12300. Reference to Social Security Act.*

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

- Sec. 12301. State obligation to provide child support enforcement services.*
- Sec. 12302. Distribution of child support collections.*
- Sec. 12303. Privacy safeguards.*

CHAPTER 2—LOCATE AND CASE TRACKING

- Sec. 12311. State case registry.*
- Sec. 12312. Collection and disbursement of support payments.*
- Sec. 12313. State directory of new hires.*
- Sec. 12314. Amendments concerning income withholding.*
- Sec. 12315. Locator information from interstate networks.*
- Sec. 12316. Expansion of the Federal parent locator service.*
- Sec. 12317. Collection and use of social security numbers for use in child support enforcement.*

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

- Sec. 12321. Adoption of uniform State laws.*
- Sec. 12322. Improvements to full faith and credit for child support orders.*
- Sec. 12323. Administrative enforcement in interstate cases.*
- Sec. 12324. Use of forms in interstate enforcement.*
- Sec. 12325. State laws providing expedited procedures.*

CHAPTER 4—PATERNITY ESTABLISHMENT

- Sec. 12331. State laws concerning paternity establishment.*
- Sec. 12332. Outreach for voluntary paternity establishment.*
- Sec. 12333. Cooperation by applicants for and recipients of temporary family assistance.*

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

- Sec. 12341. Performance-based incentives and penalties.*
- Sec. 12342. Federal and State reviews and audits.*
- Sec. 12343. Required reporting procedures.*
- Sec. 12344. Automated data processing requirements.*
- Sec. 12345. Technical assistance.*
- Sec. 12346. Reports and data collection by the Secretary.*

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

- Sec. 12351. Simplified process for review and adjustment of child support orders.*
- Sec. 12352. Furnishing consumer reports for certain purposes relating to child support.*

Sec. 12353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

Sec. 12361. Internal Revenue Service collection of arrearages.

Sec. 12362. Authority to collect support from Federal employees.

Sec. 12363. Enforcement of child support obligations of members of the Armed Forces.

Sec. 12364. Voiding of fraudulent transfers.

Sec. 12365. Work requirement for persons owing past-due child support.

Sec. 12366. Definition of support order.

Sec. 12367. Reporting arrearages to credit bureaus.

Sec. 12368. Liens.

Sec. 12369. State law authorizing suspension of licenses.

Sec. 12370. International child support enforcement.

Sec. 12371. Financial institution data matches.

Sec. 12372. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.

CHAPTER 8—MEDICAL SUPPORT

Sec. 12376. Correction to ERISA definition of medical child support order.

Sec. 12377. Enforcement of orders for health care coverage.

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

Sec. 12381. Grants to States for access and visitation programs.

CHAPTER 10—EFFECT OF ENACTMENT

Sec. 12391. Effective dates.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS

Sec. 12401. Aliens who are not qualified aliens ineligible for Federal public benefits.

Sec. 12402. Limited eligibility of certain qualified aliens for certain Federal programs.

Sec. 12403. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.

CHAPTER 2—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

Sec. 12421. Attribution of sponsor's income and resources to alien.

Sec. 12422. Requirements for sponsor's affidavit of support.

Sec. 12423. Cosignature of alien student loans.

CHAPTER 3—GENERAL PROVISIONS

Sec. 12431. Definitions.

Sec. 12432. Reapplication for SSI benefits.

Sec. 12433. Statutory construction.

*Subtitle E—Teaching Hospital and Graduate Medical Education Trust Fund**CHAPTER 1—TRUST FUND*

Sec. 13501. Establishment of Fund; payments to teaching hospitals.

CHAPTER 2—AMENDMENTS TO MEDICARE PROGRAM

Sec. 13511. Transfer of funds.

Subtitle F—National Defense Stockpile

Sec. 12601. Disposal of certain materials in national defense stockpile for deficit reduction.

Subtitle G—Child Protection Block Grant Program and Foster Care and Adoption Assistance

Sec. 12701. Establishment of program.

Sec. 12702. Conforming amendments.

Sec. 12703. Effective date; transition rule.

Subtitle H—Child Care

Sec. 12801. Short title and references.

Sec. 12802. Authorization of appropriations.

Sec. 12803. Lead agency.

Sec. 12804. Application and plan.

Sec. 12805. Limitation on State allotments.

Sec. 12806. Activities to improve the quality of child care.

Sec. 12807. Administration and enforcement.

Sec. 12808. Payments.

Sec. 12809. Annual report and audits.

Sec. 12810. Allotments.

Sec. 12811. Definitions.

*Subtitle I—Child Nutrition Programs**CHAPTER 1—NATIONAL SCHOOL LUNCH ACT*

Sec. 12901. Termination of additional payment for lunches served in high free and reduced price participation schools.

Sec. 12902. Direct Federal expenditures.

Sec. 12903. Value of food assistance.

Sec. 12904. Reduced price lunches.

Sec. 12905. Lunches, breakfasts, and supplements.

Sec. 12906. Summer food service program for children.

Sec. 12907. Child care food program.

Sec. 12908. Pilot projects.

Sec. 12909. Information clearinghouse.

CHAPTER 2—CHILD NUTRITION ACT

Sec. 12921. Special milk program.

Sec. 12922. Free and reduced price breakfasts.

Sec. 12923. Conforming reimbursement for paid breakfasts and lunches.

Sec. 12924. School breakfast program authorization.

Sec. 12925. Miscellaneous provisions and definitions.

Sec. 12926. Nutrition education and training.

*Subtitle J—Food Stamps and Commodity Distribution**Sec. 13001. Short title.**CHAPTER 1—FOOD STAMP PROGRAM*

- Sec. 13011. Definition of certification period.*
Sec. 13012. Definition of coupon.
Sec. 13013. Treatment of children living at home.
Sec. 13014. Optional additional criteria for separate household determinations.
Sec. 13015. Adjustment of thrifty food plan.
Sec. 13016. Definition of homeless individual.
Sec. 13017. State option for eligibility standards.
Sec. 13018. Earnings of students.
Sec. 13019. Energy assistance.
Sec. 13020. Deductions from income.
Sec. 13021. Vehicle allowance.
Sec. 13022. Vendor payments for transitional housing counted as income.
Sec. 13023. Doubled penalties for violating food stamp program requirements.
Sec. 13024. Disqualification of convicted individuals.
Sec. 13025. Disqualification.
Sec. 13026. Caretaker exemption.
Sec. 13027. Employment and training.
Sec. 13028. Comparable treatment for disqualification.
Sec. 13029. Disqualification for receipt of multiple food stamp benefits.
Sec. 13030. Disqualification of fleeing felons.
Sec. 13031. Cooperation with child support agencies.
Sec. 13032. Disqualification relating to child support arrears.
Sec. 13033. Work requirement.
Sec. 13034. Encourage electronic benefit transfer systems.
Sec. 13035. Value of minimum allotment.
Sec. 13036. Benefits on recertification.
Sec. 13037. Optional combined allotment for expedited households.
Sec. 13038. Failure to comply with other means-tested public assistance programs.
Sec. 13039. Allotments for households residing in centers.
Sec. 13040. Condition precedent for approval of retail food stores and wholesale food concerns.
Sec. 13041. Authority to establish authorization periods.
Sec. 13042. Information for verifying eligibility for authorization.
Sec. 13043. Waiting period for stores that fail to meet authorization criteria.
Sec. 13044. Expedited coupon service.
Sec. 13045. Withdrawing fair hearing requests.
Sec. 13046. Disqualification of retailers who intentionally submit falsified applications.
Sec. 13047. Disqualification of retailers who are disqualified under the WIC program.
Sec. 13048. Collection of overissuances.
Sec. 13049. Authority to suspend stores violating program requirements pending administrative and judicial review.
Sec. 13050. Limitation of Federal match.
Sec. 13051. Work supplementation or support program.
Sec. 13052. Authorization of pilot projects.
Sec. 13053. Employment initiatives program.
Sec. 13054. Reauthorization of Puerto Rico nutrition assistance program.
Sec. 13055. Simplified food stamp program.

Sec. 13056. State food assistance block grant.

Sec. 13057. American Samoa.

Sec. 13058. Assistance for community food projects.

CHAPTER 2—COMMODITY DISTRIBUTION PROGRAMS

Sec. 13071. Emergency food assistance program.

Subtitle K—Miscellaneous

Sec. 13101. Food stamp eligibility.

Sec. 13102. Reduction in block grants for social services.

Subtitle L—Reform of the Earned Income Credit

Sec. 13200. Amendment of 1986 code.

Sec. 13201. Earned income credit denied to individuals not authorized to be employed in the United States.

Sec. 13202. Repeal of earned income credit for individuals without children.

Sec. 13203. Modification of earned income credit amount and phaseout.

Sec. 13204. Rules relating to denial of earned income credit on basis of disqualified income.

Sec. 13205. Modification of adjusted gross income definition for earned income credit.

Sec. 13206. Provisions to improve tax compliance.

Subtitle M—Clinical Laboratories

Sec. 13301. Exemption of physician office laboratories.

1 **Subtitle A—Block Grants for Tem-**
 2 **porary Assistance for Needy**
 3 **Families**

4 **SEC. 12100. REFERENCES TO THE SOCIAL SECURITY ACT.**

5 *Except as otherwise specifically provided, wherever in*
 6 *this subtitle an amendment is expressed in terms of an*
 7 *amendment to or repeal of a section or other provision, the*
 8 *reference shall be considered to be made to that section or*
 9 *other provision of the Social Security Act.*

10 **SEC. 12101. BLOCK GRANTS TO STATES.**

11 *Part A of title IV (42 U.S.C. 601 et seq.) is amended*
 12 *to read as follows:*

1 **“PART A—BLOCK GRANTS TO STATES FOR**
2 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**
3 **“SEC. 401. ELIGIBLE STATES; STATE PLAN.**

4 “(a) *IN GENERAL.*—As used in this part, the term ‘eli-
5 gible State’ means, with respect to a fiscal year, a State
6 that, during the 2-year period immediately preceding the
7 fiscal year, has submitted to the Secretary a plan that in-
8 cludes the following:

9 “(1) *OUTLINE OF FAMILY ASSISTANCE PRO-*
10 *GRAM.*—

11 “(A) *GENERAL PROVISIONS.*—A written
12 document that outlines how the State intends to
13 do the following:

14 “(i) *Conduct a program, designed to*
15 *serve all political subdivisions in the State,*
16 *that provides assistance to needy families*
17 *with (or expecting) children and provides*
18 *parents with job preparation, work, and*
19 *support services to enable them to leave the*
20 *program and become self-sufficient.*

21 “(ii) *Require a parent or caretaker re-*
22 *ceiving assistance under the program to en-*
23 *gage in work (as defined by the State) once*
24 *the State determines the parent or caretaker*
25 *is ready to engage in work, or once the par-*
26 *ent or caretaker has received assistance*

1 *under the program for 24 months (whether*
2 *or not consecutive), whichever is earlier.*

3 “(iii) *Ensure that parents and care-*
4 *takers receiving assistance under the pro-*
5 *gram engage in work activities in accord-*
6 *ance with section 406.*

7 “(iv) *Take such reasonable steps as the*
8 *State deems necessary to restrict the use*
9 *and disclosure of information about indi-*
10 *viduals and families receiving assistance*
11 *under the program.*

12 “(v) *Establish goals and take action to*
13 *prevent and reduce the incidence of out-of-*
14 *wedlock pregnancies, with special emphasis*
15 *on teenage pregnancies, and establish nu-*
16 *merical goals for reducing the illegitimacy*
17 *ratio of the State (as defined in section*
18 *402(a)(2)(B)) for calendar years 1996*
19 *through 2005.*

20 “(B) *SPECIAL PROVISIONS.—*

21 “(i) *The document shall indicate*
22 *whether the State intends to treat families*
23 *moving into the State from another State*
24 *differently than other families under the*

1 *program, and if so, how the State intends*
2 *to treat such families under the program.*

3 *“(ii) The document shall indicate*
4 *whether the State intends to provide assist-*
5 *ance under the program to individuals who*
6 *are not citizens of the United States, and if*
7 *so, shall include an overview of such assist-*
8 *ance.*

9 *“(2) CERTIFICATION THAT THE STATE WILL OP-*
10 *ERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—*
11 *A certification by the chief executive officer of the*
12 *State that, during the fiscal year, the State will oper-*
13 *ate a child support enforcement program under the*
14 *State plan approved under part D.*

15 *“(3) CERTIFICATION THAT THE STATE WILL OP-*
16 *ERATE A CHILD PROTECTION PROGRAM.—A certifi-*
17 *cation by the chief executive officer of the State that,*
18 *during the fiscal year, the State will operate a child*
19 *protection program under the State plan approved*
20 *under part B.*

21 *“(4) CERTIFICATION OF THE ADMINISTRATION*
22 *OF THE PROGRAM.—A certification by the chief execu-*
23 *tive officer of the State specifying which State agency*
24 *or agencies will administer and supervise the pro-*
25 *gram referred to in paragraph (1) for the fiscal year,*

1 *which shall include assurances that local governments*
2 *and private sector organizations—*

3 “(A) *have been consulted regarding the plan*
4 *and design of welfare services in the State so*
5 *that services are provided in a manner appro-*
6 *priate to local populations; and*

7 “(B) *have had at least 60 days to submit*
8 *comments on the plan and the design of such*
9 *services.*

10 “(5) *CERTIFICATION THAT THE STATE WILL*
11 *PROVIDE INDIANS WITH EQUITABLE ACCESS TO AS-*
12 *SISTANCE.—A certification by the chief executive offi-*
13 *cer of the State that, during the fiscal year, the State*
14 *will provide each Indian who is a member of an In-*
15 *Indian tribe in the State that does not have a tribal*
16 *family assistance plan approved under section 411*
17 *with equitable access to assistance under the State*
18 *program funded under this part.*

19 “(b) *SPECIAL RULE FOR FISCAL YEAR 1996.—Not-*
20 *withstanding subsection (a), the term ‘eligible State’ means,*
21 *with respect to fiscal year 1996, a State that has submitted*
22 *to the Secretary a plan described in subsection (a) within*
23 *3 months after the date of the enactment of this part.*

1 “(c) *PUBLIC AVAILABILITY OF STATE PLAN SUM-*
2 *MARY.—The State shall make available to the public a sum-*
3 *mary of any plan submitted by the State under this section.*

4 **“SEC. 402. PAYMENTS TO STATES.**

5 “(a) *GRANTS.—*

6 “(1) *FAMILY ASSISTANCE GRANT.—*

7 “(A) *IN GENERAL.—Each eligible State*
8 *shall be entitled to receive from the Secretary, for*
9 *each of fiscal years 1996, 1997, 1998, 1999, and*
10 *2000, a grant in an amount equal to the State*
11 *family assistance grant. The payment of these*
12 *grants to States shall not be deemed to entitle*
13 *any individual or family to any assistance*
14 *under any State program funded under this*
15 *part.*

16 “(B) *STATE FAMILY ASSISTANCE GRANT DE-*
17 *FINED.—As used in this part, the term ‘State*
18 *family assistance grant’ means the greatest of—*

19 “(i) *1/3 of the total amount required to*
20 *be paid to the State under section 403 of*
21 *this title (as in effect on September 30,*
22 *1995) for fiscal years 1992, 1993, and 1994*
23 *(other than with respect to amounts ex-*
24 *pended by the State for child care under*

1 *subsection (g) or (i) of section 402 (as so in*
2 *effect));*

3 *“(ii) the total amount required to be*
4 *paid to the State under such section 403 for*
5 *fiscal year 1994 (other than with respect to*
6 *amounts expended by the State for child*
7 *care under subsection (g) or (i) of section*
8 *402 (as so in effect)); or*

9 *“(iii) $\frac{4}{3}$ of the total amount required*
10 *to be paid to the State under such section*
11 *403 for the 1st 3 quarters of fiscal year*
12 *1995 (other than with respect to amounts*
13 *expended by the State under the State plan*
14 *approved under part F (as so in effect) or*
15 *for child care under subsection (g) or (i) of*
16 *section 402 (as so in effect)), plus the total*
17 *amount required to be paid to the State for*
18 *fiscal year 1995 under section 403(l) (as so*
19 *in effect).*

20 *“(2) GRANT TO REWARD STATES THAT REDUCE*
21 *OUT-OF-WEDLOCK BIRTHS.—*

22 *“(A) IN GENERAL.—In addition to any*
23 *grant under paragraph (1), each eligible State*
24 *shall be entitled to receive from the Secretary for*
25 *fiscal year 1998 or any succeeding fiscal year, a*

1 *grant in an amount equal to the State family*
2 *assistance grant multiplied by—*

3 “(i) 5 percent if—

4 “(I) *the illegitimacy ratio of the*
5 *State for the fiscal year is at least 1*
6 *percentage point lower than the illegit-*
7 *imacy ratio of the State for fiscal year*
8 *1995; and*

9 “(II) *the rate of induced preg-*
10 *nancy terminations in the State for the*
11 *fiscal year is less than the rate of in-*
12 *duced pregnancy terminations in the*
13 *State for fiscal year 1995; or*

14 “(ii) 10 percent—

15 “(I) *if the illegitimacy ratio of the*
16 *State for the fiscal year is at least 2*
17 *percentage points lower than the ille-*
18 *gitimacy ratio of the State for fiscal*
19 *year 1995; and*

20 “(II) *the rate of induced preg-*
21 *nancy terminations in the State for the*
22 *fiscal year is less than the rate of in-*
23 *duced pregnancy terminations in the*
24 *State for fiscal year 1995.*

1 “(B) *ILLEGITIMACY RATIO.*—As used in this
2 paragraph, the term ‘illegitimacy ratio’ means,
3 with respect to a State and a fiscal year—

4 “(i) the number of out-of-wedlock births
5 that occurred in the State during the most
6 recent fiscal year for which such informa-
7 tion is available; divided by

8 “(ii) the number of births that occurred
9 in the State during the most recent fiscal
10 year for which such information is avail-
11 able.

12 “(C) *DISREGARD OF CHANGES IN DATA DUE*
13 *TO CHANGED REPORTING METHODS.*—For pur-
14 poses of subparagraph (A), the Secretary shall
15 disregard—

16 “(i) any difference between the illegit-
17 imacy ratio of a State for a fiscal year and
18 the illegitimacy ratio of the State for fiscal
19 year 1995 which is attributable to a change
20 in State methods of reporting data used to
21 calculate the illegitimacy ratio; and

22 “(ii) any difference between the rate of
23 induced pregnancy terminations in a State
24 for a fiscal year and such rate for fiscal
25 year 1995 which is attributable to a change

1 *in State methods of reporting data used to*
2 *calculate such rate.*

3 “(3) *SUPPLEMENTAL GRANT FOR POPULATION*
4 *INCREASES IN CERTAIN STATES.—*

5 “(A) *IN GENERAL.—In addition to any*
6 *grant under paragraph (1), each qualifying*
7 *State shall, subject to subparagraph (E), be enti-*
8 *tled to receive from the Secretary for each of fis-*
9 *cal years 1997, 1998, 1999, and 2000, a grant*
10 *in an amount equal to the sum of—*

11 “(i) *the amount (if any) required to be*
12 *paid to the State under this paragraph for*
13 *the immediately preceding fiscal year; and*

14 “(ii) *2.5 percent of the sum of—*

15 “(I) *the total amount required to*
16 *be paid to the State under part A (as*
17 *in effect during fiscal year 1994) for*
18 *fiscal year 1994; and*

19 “(II) *the amount (if any) required*
20 *to be paid to the State under this*
21 *paragraph for the fiscal year preceding*
22 *the fiscal year specified in the matter*
23 *preceding clause (i).*

24 “(B) *QUALIFYING STATE.—*

1 “(i) *IN GENERAL.*—For purposes of
2 *this paragraph, a State is a qualifying*
3 *State for a fiscal year if—*

4 “(I) *the level of welfare spending*
5 *per poor person by the State for the*
6 *immediately preceding fiscal year is*
7 *less than the national average level of*
8 *State welfare spending per poor person*
9 *for such preceding fiscal year; and*

10 “(II) *the population growth rate*
11 *of the State (as determined by the Bu-*
12 *reau of the Census for the most recent*
13 *fiscal year for which information is*
14 *available exceeds the average popu-*
15 *lation growth rate for all States (as so*
16 *determined) for such most recent fiscal*
17 *year.*

18 “(ii) *STATE MUST QUALIFY IN FISCAL*
19 *YEAR 1997.*—*Notwithstanding clause (i), a*
20 *State shall not be a qualifying State for*
21 *any fiscal year after 1997 by reason of*
22 *clause (i) if the State is not a qualifying*
23 *State for fiscal year 1997 by reason of*
24 *clause (i).*

1 “(iii) *CERTAIN STATES DEEMED*
2 *QUALIFYING STATES.*—*For purposes of this*
3 *paragraph, a State is deemed to be a quali-*
4 *fying State for fiscal years 1997, 1998,*
5 *1999, and 2000 if—*

6 “(I) *the level of welfare spending*
7 *per poor person by the State for fiscal*
8 *year 1996 is less than 35 percent of the*
9 *national average level of State welfare*
10 *spending per poor person for fiscal*
11 *year 1996; or*

12 “(II) *the population of the State*
13 *increased by more than 10 percent*
14 *from April 1, 1990 to July 1, 1994, as*
15 *determined by the Bureau of the Cen-*
16 *sus.*

17 “(C) *DEFINITIONS.*—*As used in this para-*
18 *graph:*

19 “(i) *LEVEL OF WELFARE SPENDING*
20 *PER POOR PERSON.*—*The term ‘level of*
21 *State welfare spending per poor person’*
22 *means, with respect to a State and a fiscal*
23 *year—*

24 “(I) *the sum of—*

1 “(aa) the total amount re-
2 quired to be paid to the State
3 under part A (as in effect during
4 fiscal year 1994) for fiscal year
5 1994; and

6 “(bb) the amount (if any)
7 paid to the State under this para-
8 graph for the immediately preced-
9 ing fiscal year; divided by

10 “(II) the number of individuals,
11 according to the 1990 decennial census,
12 who were residents of the State and
13 whose income was below the poverty
14 line.

15 “(ii) NATIONAL AVERAGE LEVEL OF
16 STATE WELFARE SPENDING PER POOR PER-
17 SON.—The term ‘national average level of
18 State welfare spending per poor person’
19 means, with respect to a fiscal year, an
20 amount equal to—

21 “(I) the total amount required to
22 be paid to the States under part A (as
23 in effect during fiscal year 1994) for
24 fiscal year 1994; divided by

1 “(II) *the number of individuals,*
2 *according to the 1990 decennial census,*
3 *who were residents of any State and*
4 *whose income was below the poverty*
5 *line.*

6 “(iii) *STATE.—The term ‘State’ means*
7 *each of the 50 States of the United States*
8 *and the District of Columbia.*

9 “(D) *APPROPRIATION.—Out of any money*
10 *in the Treasury of the United States not other-*
11 *wise appropriated, there are appropriated 1996,*
12 *1997, 1998, 1999, and 2000 such sums as are*
13 *necessary for grants under this paragraph, in a*
14 *total amount not to exceed \$800,000,000.*

15 “(E) *GRANTS REDUCED PRO RATA IF IN-*
16 *SUFFICIENT APPROPRIATIONS.—If the amount*
17 *appropriated pursuant to this paragraph for a*
18 *fiscal year is less than the total amount of pay-*
19 *ments otherwise required to be made under this*
20 *paragraph for the fiscal year, then the amount*
21 *otherwise payable to each qualifying State for*
22 *the fiscal year under this paragraph shall be re-*
23 *duced by a percentage equal to the amount so*
24 *appropriated divided by such total amount.*

25 “(b) *CONTINGENCY FUND.—*

1 “(1) *ESTABLISHMENT.*—*There is hereby estab-*
2 *lished in the Treasury of the United States a fund*
3 *which shall be known as the ‘Contingency Fund for*
4 *State Welfare Programs’ (in this section referred to as*
5 *the ‘Fund’).*

6 “(2) *DEPOSITS INTO FUND.*—*Out of any money*
7 *in the Treasury of the United States not otherwise*
8 *appropriated, there are appropriated for fiscal years*
9 *1996, 1997, 1998, 1999, and 2000 such sums as are*
10 *necessary for payment to the Fund in a total amount*
11 *not to exceed \$800,000,000.*

12 “(3) *COMPUTATION OF GRANT.*—

13 “(A) *IN GENERAL.*—*Subject to subpara-*
14 *graph (B), the Secretary of the Treasury shall*
15 *pay to each eligible State for a fiscal year an*
16 *amount equal to the Federal medical assistance*
17 *percentage for the State for the fiscal year (as*
18 *defined in section 1905(b), as in effect on the*
19 *date of the enactment of this part) of so much of*
20 *the expenditures by the State in the fiscal year*
21 *under the State program funded under this part*
22 *as exceed the historic State expenditures (as de-*
23 *fined in section 408(a)(7)(B)(iii)) for the State.*

24 “(B) *LIMITATION.*—*The total amount paid*
25 *to a State under subparagraph (A) for any fiscal*

1 *year shall not exceed an amount equal to 20 per-*
2 *cent of the State family assistance grant for the*
3 *fiscal year.*

4 “(C) *METHOD OF RECONCILIATION.*—*If, at*
5 *the end of any fiscal year, the Secretary finds*
6 *that a State to which amounts from the Fund*
7 *were paid in the fiscal year did not meet the*
8 *maintenance of effort requirement under para-*
9 *graph (4)(B) for the fiscal year, the Secretary*
10 *shall reduce the grant payable to the State under*
11 *subsection (a)(1) for the immediately succeeding*
12 *fiscal year by such amounts.*

13 “(4) *ELIGIBLE STATE.*—

14 “(A) *IN GENERAL.*—*For purposes of this*
15 *subsection, a State is an eligible State for a fis-*
16 *cal year, if—*

17 “(i)(I) *the average rate of total unem-*
18 *ployment in such State (seasonally ad-*
19 *justed) for the period consisting of the most*
20 *recent 3 months for which data for all*
21 *States are published equals or exceeds 6.5*
22 *percent; and*

23 “(II) *the average rate of total unem-*
24 *ployment in such State (seasonally ad-*
25 *justed) for the 3-month period equals or ex-*

1 ceeds 110 percent of such average rate for
2 either (or both) of the corresponding 3-
3 month periods ending in the 2 preceding
4 calendar years; and

5 “(ii) has met the maintenance of effort
6 requirement under subparagraph (B) for the
7 State program funded under this part for
8 the fiscal year.

9 “(B) MAINTENANCE OF EFFORT.—The
10 maintenance of effort requirement for any State
11 under this subparagraph for any fiscal year is
12 the expenditure by the State during the fiscal
13 year of an amount at least equal to 100 percent
14 of the level of historic State expenditures for the
15 State (as determined under section 408(e)).

16 “(5) STATE.—As used in this subsection, the
17 term ‘State’ means each of the 50 States of the United
18 States and the District of Columbia.

19 “(c) CONDITION OF GRANT.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of this section, as a condition of receiving
22 a grant under this section, a State shall not provide
23 cash assistance to a family that includes an adult
24 who has received assistance under any State program
25 funded under this part for 60 months (whether or not

1 consecutive) after September 30, 1995, except as pro-
2 vided in paragraphs (2) and (3).

3 “(2) *MINOR CHILD EXCEPTION.*—In determining
4 the number of months for which an individual who
5 is a parent or pregnant, as the case may be, has re-
6 ceived assistance under the State program funded
7 under this part, there shall be disregarded any month
8 for which such assistance was provided with respect
9 to the individual and throughout which the individ-
10 ual was—

11 “(A) a minor child; and

12 “(B) not the head of a household or married
13 to the head of a household.

14 “(3) *HARDSHIP EXCEPTION.*—

15 “(A) *IN GENERAL.*—The State may exempt
16 a family from the application of paragraph (1)
17 by reason of hardship or if the family includes
18 an individual who has been battered or subjected
19 to extreme cruelty.

20 “(B) *LIMITATION.*—The number of families
21 with respect to which an exemption made by a
22 State under subparagraph (A) is in effect for a
23 fiscal year shall not exceed 15 percent of the av-
24 erage monthly number of families to which the

1 *State is providing assistance under the program*
2 *funded under this part.*

3 “(C) *BATTERED OR SUBJECT TO EXTREME*
4 *CRUELTY DEFINED.—For purposes of subpara-*
5 *graph (A), an individual has been battered or*
6 *subjected to extreme cruelty if the individual has*
7 *been subjected to—*

8 “(i) *physical acts that resulted in, or*
9 *threatened to result in, physical injury to*
10 *the individual;*

11 “(ii) *sexual abuse;*

12 “(iii) *sexual activity involving a de-*
13 *pendent child;*

14 “(iv) *being forced as the caretaker rel-*
15 *ative of a dependent child to engage in*
16 *nonconsensual sexual acts or activities;*

17 “(v) *threats of, or attempts at, physical*
18 *or sexual abuse;*

19 “(vi) *mental abuse; or*

20 “(vii) *neglect or deprivation of medical*
21 *care.*

22 “(4) *RULE OF INTERPRETATION.—Paragraph (1)*
23 *shall not be interpreted to require any State to pro-*
24 *vide assistance to any individual for any period of*
25 *time under the State program funded under this part.*

1 **“SEC. 403. USE OF GRANTS.**

2 “(a) *GENERAL RULES.*—Subject to this part, a State
3 to which a grant is made under section 402 may use the
4 grant—

5 “(1) in any manner that is reasonably cal-
6 culated to increase the flexibility of States in operat-
7 ing a program designed to—

8 “(A) provide assistance to needy families so
9 that children may be cared for in their own
10 homes or in the homes of relatives;

11 “(B) end the dependence of needy parents
12 on government benefits by promoting job prepa-
13 ration, work, and marriage;

14 “(C) prevent and reduce the incidence of
15 out-of-wedlock pregnancies and establish annual
16 numerical goals for preventing and reducing the
17 incidence of these pregnancies; and

18 “(D) encourage the formation and mainte-
19 nance of two-parent families; and

20 “(2) in any manner that the State was author-
21 ized to use amounts received under part A or F of
22 this title, as such parts were in effect on September
23 30, 1995.

24 “(b) *LIMITATION ON USE OF GRANT FOR ADMINISTRA-*
25 *TIVE PURPOSES.*—

1 “(1) *LIMITATION.*—A State to which a grant is
2 made under section 402 shall not expend more than
3 15 percent of the grant for administrative purposes.

4 “(2) *EXCEPTION.*—Paragraph (1) shall not
5 apply to the use of a grant for information technology
6 and computerization needed for tracking or monitor-
7 ing required by or under this part.

8 “(c) *AUTHORITY TO USE PORTION OF GRANT FOR*
9 *OTHER PURPOSES.*—

10 “(1) *IN GENERAL.*—A State may use not more
11 than 30 percent of the amount of the grant made to
12 the State under section 402 for a fiscal year to carry
13 out a State program pursuant to any or all of the fol-
14 lowing provisions of law:

15 “(A) *Part B of this title.*

16 “(B) *Title XX of this Act.*

17 “(C) *The Child Care and Development*
18 *Block Grant Act of 1990.*

19 “(2) *APPLICABLE RULES.*—Any amount paid to
20 the State under this part that is used to carry out a
21 State program pursuant to a provision of law speci-
22 fied in paragraph (1) shall not be subject to the re-
23 quirements of this part, but shall be subject to the re-
24 quirements that apply to Federal funds provided di-

1 rectly under the provision of law to carry out the pro-
2 gram.

3 “(d) *AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR*
4 *ASSISTANCE.*—A State may reserve amounts paid to the
5 State under this part for any fiscal year for the purpose
6 of providing, without fiscal year limitation, assistance
7 under the State program funded under this part.

8 “(e) *AUTHORITY TO OPERATE EMPLOYMENT PLACE-*
9 *MENT PROGRAM.*—A State to which a grant is made under
10 section 402 may use the grant to make payments (or pro-
11 vide job placement vouchers) to State-approved public and
12 private job placement agencies that provide employment
13 placement services to individuals who receive assistance
14 under the State program funded under this part.

15 “(f) *IMPLEMENTATION OF ELECTRONIC BENEFIT*
16 *TRANSFER SYSTEM.*—A State to which a grant is made
17 under section 402 is encouraged to implement an electronic
18 benefit transfer system for providing assistance under the
19 State program funded under this part, and may use the
20 grant for such purpose.

21 **“SEC. 404. ADMINISTRATIVE PROVISIONS.**

22 “(a) *QUARTERLY.*—The Secretary shall pay each grant
23 payable to a State under section 402 in quarterly install-
24 ments.

1 “(b) *NOTIFICATION.*—Not later than 3 months before
2 the payment of any such quarterly installment to a State,
3 the Secretary shall notify the State of the amount of any
4 reduction determined under section 411(a)(1)(B) with re-
5 spect to the State.

6 “(c) *COMPUTATION AND CERTIFICATION OF PAYMENTS*
7 *TO STATES.*—

8 “(1) *COMPUTATION.*—The Secretary shall esti-
9 mate the amount to be paid to each eligible State for
10 each quarter under this part, such estimate to be
11 based on a report filed by the State containing an es-
12 timate by the State of the total sum to be expended
13 by the State in the quarter under the State program
14 funded under this part and such other information as
15 the Secretary may find necessary.

16 “(2) *CERTIFICATION.*—The Secretary of Health
17 and Human Services shall certify to the Secretary of
18 the Treasury the amount estimated by the Secretary
19 under paragraph (1) with respect to a State.

20 “(d) *PAYMENT METHOD.*—Upon receipt of a certifi-
21 cation under subsection (c)(2) with respect to a State, the
22 Secretary of the Treasury shall, through the Fiscal Service
23 of the Department of the Treasury and before audit or set-
24 tlement by the General Accounting Office, pay to the State,

1 *at the time or times fixed by the Secretary of Health and*
2 *Human Services, the amount so certified.*

3 **“SEC. 405. FEDERAL LOANS FOR STATE WELFARE PRO-**
4 **GRAMS.**

5 “(a) *LOAN AUTHORITY.*—

6 “(1) *IN GENERAL.*—*The Secretary shall make*
7 *loans to any loan-eligible State, for a period to matu-*
8 *riety of not more than 3 years.*

9 “(2) *LOAN-ELIGIBLE STATE.*—*As used in para-*
10 *graph (1), the term ‘loan-eligible State’ means a State*
11 *against which a penalty has not been imposed under*
12 *section 408(a)(1) at any time before the loan is to be*
13 *made.*

14 “(b) *RATE OF INTEREST.*—*The Secretary shall charge*
15 *and collect interest on any loan made under this section*
16 *at a rate equal to the current average market yield on out-*
17 *standing marketable obligations of the United States with*
18 *remaining periods to maturity comparable to the period to*
19 *maturity of the loan.*

20 “(c) *USE OF LOAN.*—*A State shall use a loan made*
21 *to the State under this section only for any purpose for*
22 *which grant amounts received by the State under section*
23 *402(a) may be used including—*

24 “(1) *welfare anti-fraud activities; and*

1 “(2) *the provision of assistance under the State*
2 *program to Indian families that have moved from the*
3 *service area of an Indian tribe with a tribal family*
4 *assistance plan approved under section 411.*

5 “(d) *LIMITATION ON TOTAL AMOUNT OF LOANS TO A*
6 *STATE.—The cumulative dollar amount of all loans made*
7 *to a State under this section during fiscal years 1996*
8 *through 2000 shall not exceed 10 percent of the State family*
9 *assistance grant.*

10 “(e) *LIMITATION ON TOTAL AMOUNT OF OUTSTANDING*
11 *LOANS.—The total dollar amount of loans outstanding*
12 *under this section may not exceed \$1,700,000,000.*

13 “(f) *APPROPRIATION.—Out of any money in the Treas-*
14 *ury of the United States not otherwise appropriated, there*
15 *are appropriated such sums as may be necessary for the*
16 *cost of loans under this section.*

17 “**SEC. 406. MANDATORY WORK REQUIREMENTS.**

18 “(a) *PARTICIPATION RATE REQUIREMENTS.—*

19 “(1) *ALL FAMILIES.—A State to which a grant*
20 *is made under section 402 for a fiscal year shall*
21 *achieve the minimum participation rate specified in*
22 *the following table for the fiscal year with respect to*
23 *all families receiving assistance under the State pro-*
24 *gram funded under this part:*

“If the fiscal year is:	The minimum participation rate is:
1996	15
1997	20
1998	25
1999	30
2000	35
2001	40
2002 or thereafter	50.

1 “(2) 2-PARENT FAMILIES.—A State to which a
 2 grant is made under section 402 for a fiscal year
 3 shall achieve the minimum participation rate speci-
 4 fied in the following table for the fiscal year with re-
 5 spect to 2-parent families receiving assistance under
 6 the State program funded under this part:

“If the fiscal year is:	The minimum participation rate is:
1996	50
1997	75
1998	75
1999 or thereafter	90.

7 “(b) CALCULATION OF PARTICIPATION RATES.—

8 “(1) ALL FAMILIES.—

9 “(A) AVERAGE MONTHLY RATE.—For pur-
 10 poses of subsection (a)(1), the participation rate
 11 for all families of a State for a fiscal year is the
 12 average of the participation rates for all families
 13 of the State for each month in the fiscal year.

14 “(B) MONTHLY PARTICIPATION RATES.—
 15 The participation rate of a State for all families
 16 of the State for a month, expressed as a percent-
 17 age, is—

1 “(i) the number of families receiving
2 assistance under the State program funded
3 under this part that include an adult who
4 is engaged in work for the month; divided
5 by

6 “(ii) the amount by which—

7 “(I) the number of families receiv-
8 ing such assistance during the month
9 that include an adult receiving such
10 assistance; exceeds

11 “(II) the number of families re-
12 ceiving such assistance that are subject
13 in such month to a reduction or termi-
14 nation of assistance pursuant to sec-
15 tion 408(a)(2) but have not been sub-
16 ject to such penalty for more than 3
17 months within the preceding 12-month
18 period (whether or not consecutive).

19 “(2) 2-PARENT FAMILIES.—

20 “(A) AVERAGE MONTHLY RATE.—For pur-
21 poses of subsection (a)(2), the participation rate
22 for 2-parent families of a State for a fiscal year
23 is the average of the participation rates for 2-
24 parent families of the State for each month in
25 the fiscal year.

1 “(B) *MONTHLY PARTICIPATION RATES.*—

2 *The participation rate of a State for 2-parent*
3 *families of the State for a month shall be cal-*
4 *culated by use of the formula set forth in para-*
5 *graph (1)(B), except that in the formula the term*
6 *‘number of 2-parent families’ shall be substituted*
7 *for the term ‘number of families’ each place such*
8 *latter term appears.*

9 “(3) *PRO RATA REDUCTION OF PARTICIPATION*
10 *RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED*
11 *BY FEDERAL LAW.*—

12 “(A) *IN GENERAL.*—*The Secretary shall*
13 *prescribe regulations for reducing the minimum*
14 *participation rate otherwise required by this sec-*
15 *tion for a fiscal year by the number of percent-*
16 *age points equal to the number of percentage*
17 *points (if any) by which—*

18 “(i) *the number of families receiving*
19 *assistance during the fiscal year under the*
20 *State program funded under this part is*
21 *less than*

22 “(ii) *the number of families that re-*
23 *ceived aid under the State plan approved*
24 *under part A of this title (as in effect on*

1 September 30, 1995) during the fiscal year
2 immediately preceding such effective date.

3 The minimum participation rate shall not be re-
4 duced to the extent that the Secretary determines
5 that the reduction in the number of families re-
6 ceiving such assistance is required by Federal
7 law.

8 “(B) *ELIGIBILITY CHANGES NOT COUNT-*
9 *ED.—The regulations described in subparagraph*
10 *(A) shall not take into account families that are*
11 *diverted from a State program funded under this*
12 *part as a result of differences in eligibility cri-*
13 *teria under a State program funded under this*
14 *part and eligibility criteria under such State’s*
15 *plan under the aid to families with dependent*
16 *children program, as such plan was in effect on*
17 *the day before the date of the enactment of the*
18 *Personal Responsibility and Work Opportunity*
19 *Act of 1995. Such regulations shall place the*
20 *burden on the Secretary to prove that such fami-*
21 *lies were diverted as a direct result of differences*
22 *in such eligibility criteria.*

23 “(4) *STATE OPTION TO INCLUDE INDIVIDUALS*
24 *RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY AS-*
25 *SISTANCE PLAN.—For purposes of paragraphs (1)(B)*

1 *and (2)(B), a State may, at its option, include fami-*
 2 *lies receiving assistance under a tribal family assist-*
 3 *ance plan approved under section 411.*

4 *“(c) ENGAGED IN WORK.—*

5 *“(1) ALL FAMILIES.—For purposes of subsection*
 6 *(b)(1)(B)(i), a recipient is engaged in work for a*
 7 *month in a fiscal year if the recipient is participat-*
 8 *ing in such activities for at least the minimum aver-*
 9 *age number of hours per week specified in the follow-*
 10 *ing table during the month, not fewer than 20 hours*
 11 *per week of which are attributable to an activity de-*
 12 *scribed in paragraph (1), (2), (3), (4), (5), (7), or (8)*
 13 *of subsection (d) (or, in the case of the first 4 weeks*
 14 *for which the recipient is required under this section*
 15 *to participate in work activities, an activity described*
 16 *in subsection (d)(6)):*

“If the month is in fiscal year:	The minimum average number of hours per week is:
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35.

17 *“(2) 2-PARENT FAMILIES.—For purposes of sub-*
 18 *section (b)(2)(B)(i), an adult is engaged in work for*
 19 *a month in a fiscal year if the adult is making*
 20 *progress in such activities for at least 35 hours per*

1 *week during the month, not fewer than 30 hours per*
2 *week of which are attributable to an activity described*
3 *in paragraph (1), (2), (3), (4), (5), (7), or (8) of sub-*
4 *section (d) (or, in the case of the first 4 weeks for*
5 *which the recipient is required under this section to*
6 *participate in work activities, an activity described*
7 *in subsection (d)(6)).*

8 *“(3) LIMITATION ON VOCATIONAL EDUCATION AC-*
9 *TIVITIES COUNTED AS WORK.—For purposes of deter-*
10 *mining monthly participation rates under para-*
11 *graphs (1)(B)(i) and (2)(B)(i) of subsection (b), not*
12 *more than 20 percent of adults in all families and in*
13 *2-parent families determined to be engaged in work*
14 *in the State for a month may meet the work activity*
15 *requirement through participation in vocational edu-*
16 *cational training.*

17 *“(d) WORK ACTIVITIES DEFINED.—As used in this*
18 *section, the term ‘work activities’ means—*

19 *“(1) unsubsidized employment;*

20 *“(2) subsidized private sector employment;*

21 *“(3) subsidized public sector employment;*

22 *“(4) work experience (including work associated*
23 *with the refurbishing of publicly assisted housing) if*
24 *sufficient private sector employment is not available;*

25 *“(5) on-the-job training;*

1 “(6) *job search and job readiness assistance;*

2 “(7) *community service programs;*

3 “(8) *vocational educational training (not to ex-*
4 *ceed 12 months with respect to any individual);*

5 “(9) *job skills training directly related to em-*
6 *ployment;*

7 “(10) *education directly related to employment,*
8 *in the case of a recipient who has not attained 20*
9 *years of age, and has not received a high school di-*
10 *ploma or a certificate of high school equivalency; and*

11 “(11) *satisfactory attendance at secondary*
12 *school, in the case of a recipient who—*

13 “(A) *has not completed secondary school;*

14 *and*

15 “(B) *is a dependent child, or a head of*
16 *household who has not attained 20 years of age.*

17 **“SEC. 407. PROHIBITIONS.**

18 “(a) *IN GENERAL.—*

19 “(1) *NO ASSISTANCE FOR FAMILIES WITHOUT A*
20 *MINOR CHILD.—A State to which a grant is made*
21 *under section 402 may not use any part of the grant*
22 *to provide assistance to a family, unless the family*
23 *includes—*

1 “(A) a minor child who resides with a cus-
2 todial parent or other adult caretaker relative of
3 the child; or

4 “(B) a pregnant individual.

5 “(2) *REDUCED ASSISTANCE FOR FAMILY IF*
6 *ADULT REFUSES TO WORK.*—

7 “(A) *IN GENERAL.*—*Except as provided in*
8 *subparagraph (B), a State to which a grant is*
9 *made under section 402 may not fail to—*

10 “(i) *reduce the amount of assistance*
11 *otherwise payable to a family receiving as-*
12 *sistance under the State program funded*
13 *under this part, pro rata (or more, at the*
14 *option of the State) with respect to any pe-*
15 *riod during a month in which an adult*
16 *member of the family refuses to engage in*
17 *work required in accordance with this sec-*
18 *tion; or*

19 “(ii) *terminate such assistance,*
20 *subject to such good cause and other exceptions*
21 *as the State may establish.*

22 “(B) *EXCEPTION.*—*Notwithstanding sub-*
23 *paragraph (A), a State may not reduce or termi-*
24 *nate assistance under the State program funded*
25 *under this part based on a refusal of an adult*

1 to work if the adult is a single custodial parent
2 caring for a child who has not attained 6 years
3 of age, and the adult proves that the adult has
4 a demonstrated inability (as determined by the
5 State) to obtain needed child care, for 1 or more
6 of the following reasons:

7 “(i) Unavailability of appropriate
8 child care within a reasonable distance from
9 the individual’s home or work site.

10 “(ii) Unavailability or unsuitability of
11 informal child care by a relative or under
12 other arrangements.

13 “(iii) Unavailability of appropriate
14 and affordable formal child care arrange-
15 ments.

16 “(3) *REDUCTION OR ELIMINATION OF ASSIST-*
17 *ANCE FOR NONCOOPERATION IN CHILD SUPPORT.—If*
18 *the agency responsible for administering the State*
19 *plan approved under part D determines that an indi-*
20 *vidual is not cooperating with the State in establish-*
21 *ing, modifying, or enforcing a support order with re-*
22 *spect to a child of the individual, then the State—*

23 “(A) shall deduct from the assistance that
24 would otherwise be provided to the family of the
25 individual under the State program funded

1 *under this part the share of such assistance at-*
2 *tributable to the individual; and*

3 “(B) *may deny the family any assistance*
4 *under the State program.*

5 “(4) *NO ASSISTANCE FOR FAMILIES NOT ASSIGN-*
6 *ING CERTAIN SUPPORT RIGHTS TO THE STATE.—*

7 “(A) *IN GENERAL.—A State to which a*
8 *grant is made under section 402 may not fail to*
9 *require, as a condition of providing assistance to*
10 *a family under the State program funded under*
11 *this part, that a member of the family assign to*
12 *the State any rights the family member may*
13 *have (on behalf of the family member or of any*
14 *other person for whom the family member has*
15 *applied for or is receiving such assistance) to*
16 *support from any other person, not exceeding the*
17 *total amount of assistance so provided to the*
18 *family, which accrue (or have accrued) before the*
19 *date the family leaves the program, which as-*
20 *signment, on and after the date the the family*
21 *leaves the program, shall not apply with respect*
22 *to—*

23 “(i) *if the assignment occurs on or*
24 *after October 1, 1997, and before October 1,*
25 *2000, any support (other than support col-*

1 lected pursuant to section 464) which ac-
2 crued before the family received such assist-
3 ance and which the State has not collected
4 by September 30, 2000; or

5 “(ii) if the assignment occurs on or
6 after October 1, 2000, any support (other
7 than support collected pursuant to section
8 464) which accrued before the family re-
9 ceived such assistance and which the State
10 has not collected by the date the family
11 leaves the program.

12 “(B) *LIMITATION.*—A State to which a
13 grant is made under section 402 may not re-
14 quire, as a condition of providing assistance to
15 any family under the State program funded
16 under this part, that a member of the family as-
17 sign to the State any rights to support described
18 in subparagraph (A) which accrue after the date
19 the family leaves the program.

20 “(5) *NO ASSISTANCE FOR TEENAGE PARENTS*
21 *WHO DO NOT ATTEND HIGH SCHOOL OR OTHER*
22 *EQUIVALENT TRAINING PROGRAM.*—A State to which
23 a grant is made under section 402 may not use any
24 part of the grant to provide assistance to an individ-
25 ual who has not attained 18 years of age, is not mar-

1 ried, has a minor child at least 12 weeks of age in
2 his or her care, and has not successfully completed a
3 high-school education (or its equivalent), if the indi-
4 vidual does not participate in—

5 “(A) educational activities directed toward
6 the attainment of a high school diploma or its
7 equivalent; or

8 “(B) an alternative educational or training
9 program that has been approved by the State.

10 “(6) NO ASSISTANCE FOR TEENAGE PARENTS
11 NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

12 “(A) IN GENERAL.—

13 “(i) REQUIREMENT.—Except as pro-
14 vided in subparagraph (B), a State to
15 which a grant is made under section 402
16 may not use any part of the grant to pro-
17 vide assistance to an individual described
18 in clause (ii) of this subparagraph if the in-
19 dividual and the minor child referred to in
20 clause (ii)(II) do not reside in a place of
21 residence maintained by a parent, legal
22 guardian, or other adult relative of the in-
23 dividual as such parent’s, guardian’s, or
24 adult relative’s own home.

1 “(i) *INDIVIDUAL DESCRIBED.*— *For*
2 *purposes of clause (i), an individual de-*
3 *scribed in this clause is an individual*
4 *who—*

5 “(I) *has not attained 18 years of*
6 *age; and*

7 “(II) *is not married, and has a*
8 *minor child in his or her care.*

9 “(B) *EXCEPTION.*—

10 “(i) *PROVISION OF, OR ASSISTANCE IN*
11 *LOCATING, ADULT-SUPERVISED LIVING AR-*
12 *RANGEMENT.*—*In the case of an individual*
13 *who is described in clause (ii), the State*
14 *agency referred to in section 401(a)(4) shall*
15 *provide, or assist the individual in locating,*
16 *a second chance home, maternity home, or*
17 *other appropriate adult-supervised support-*
18 *ive living arrangement, taking into consid-*
19 *eration the needs and concerns of the indi-*
20 *vidual, unless the State agency determines*
21 *that the individual’s current living arrange-*
22 *ment is appropriate, and thereafter shall re-*
23 *quire that the individual and the minor*
24 *child referred to in subparagraph (A)(i)(II)*
25 *reside in such living arrangement as a con-*

1 *dition of the continued receipt of assistance*
2 *under the State program funded under this*
3 *part (or in an alternative appropriate ar-*
4 *rangement, should circumstances change*
5 *and the current arrangement cease to be ap-*
6 *propriate).*

7 “(ii) *INDIVIDUAL DESCRIBED.—For*
8 *purposes of clause (i), an individual is de-*
9 *scribed in this clause if the individual is de-*
10 *scribed in subparagraph (A)(i), and—*

11 *“(I) the individual has no parent,*
12 *legal guardian or other appropriate*
13 *adult relative described in subclause*
14 *(II) of his or her own who is living or*
15 *whose whereabouts are known;*

16 *“(II) no living parent, legal*
17 *guardian, or other appropriate adult*
18 *relative, who would otherwise meet ap-*
19 *plicable State criteria to act as the in-*
20 *dividual’s legal guardian, of such indi-*
21 *vidual allows the individual to live in*
22 *the home of such parent, guardian, or*
23 *relative;*

24 *“(III) the State agency determines*
25 *that—*

1 “(aa) *the individual or the*
2 *minor child referred to in sub-*
3 *paragraph (A)(ii)(II) is being or*
4 *has been subjected to serious phys-*
5 *ical or emotional harm, sexual*
6 *abuse, or exploitation in the resi-*
7 *dence of the individual’s own par-*
8 *ent or legal guardian; or*

9 “(bb) *substantial evidence ex-*
10 *ists of an act or failure to act that*
11 *presents an imminent or serious*
12 *harm if the individual and the*
13 *minor child lived in the same resi-*
14 *dence with the individual’s own*
15 *parent or legal guardian; or*

16 “(IV) *the State agency otherwise*
17 *determines that it is in the best inter-*
18 *est of the minor child to waive the re-*
19 *quirement of subparagraph (A) with*
20 *respect to the individual or the minor*
21 *child.*

22 “(iii) *SECOND-CHANCE HOME.—For*
23 *purposes of this subparagraph, the term*
24 *‘second-chance home’ means an entity that*
25 *provides individuals described in clause (ii)*

1 *with a supportive and supervised living ar-*
2 *rangement in which such individuals are*
3 *required to learn parenting skills, including*
4 *child development, family budgeting, health*
5 *and nutrition, and other skills to promote*
6 *their long-term economic independence and*
7 *the well-being of their children.*

8 “(7) *NO MEDICAL SERVICES.*—

9 “(A) *IN GENERAL.*—*Except as provided in*
10 *subparagraph (B), a State to which a grant is*
11 *made under section 402 may not use any part*
12 *of the grant to provide medical services.*

13 “(B) *EXCEPTION FOR FAMILY PLANNING*
14 *SERVICES.*—*As used in subparagraph (A), the*
15 *term ‘medical services’ does not include family*
16 *planning services.*

17 “(8) *DENIAL OF ASSISTANCE FOR 10 YEARS TO A*
18 *PERSON FOUND TO HAVE FRAUDULENTLY MISREPRE-*
19 *SENTED RESIDENCE IN ORDER TO OBTAIN ASSIST-*
20 *ANCE IN 2 OR MORE STATES.*—*a State to which a*
21 *grant is made under section 402 may not use any*
22 *part of the grant to provide cash assistance to an in-*
23 *dividual during the 10-year period that begins on the*
24 *date the individual is convicted in Federal or State*
25 *court of having made a fraudulent statement or rep-*

1 *resentation with respect to the place of residence of*
2 *the individual in order to receive assistance simulta-*
3 *neously from 2 or more States under programs that*
4 *are funded under this title, title XIX, or the Food*
5 *Stamp Act of 1977, or benefits in 2 or more States*
6 *under the supplemental security income program*
7 *under title XVI.*

8 *“(9) DENIAL OF ASSISTANCE FOR FUGITIVE FEL-*
9 *ONS AND PROBATION AND PAROLE VIOLATORS.—*

10 *“(A) IN GENERAL.—A State to which a*
11 *grant is made under section 402 may not use*
12 *any part of the grant to provide assistance to*
13 *any individual who is—*

14 *“(i) fleeing to avoid prosecution, or*
15 *custody or confinement after conviction,*
16 *under the laws of the place from which the*
17 *individual flees, for a crime, or an attempt*
18 *to commit a crime, which is a felony under*
19 *the laws of the place from which the indi-*
20 *vidual flees, or which, in the case of the*
21 *State of New Jersey, is a high misdemeanor*
22 *under the laws of such State; or*

23 *“(ii) violating a condition of probation*
24 *or parole imposed under Federal or State*
25 *law.*

1 “(B) *EXCHANGE OF INFORMATION WITH*
2 *LAW ENFORCEMENT AGENCIES.*—*If a State to*
3 *which a grant is made under section 402 estab-*
4 *lishes safeguards against the use or disclosure of*
5 *information about applicants or recipients of as-*
6 *sistance under the State program funded under*
7 *this part, the safeguards shall not prevent the*
8 *State agency administering the program from*
9 *furnishing a Federal, State, or local law enforce-*
10 *ment officer, upon the request of the officer, with*
11 *the current address of any recipient if the officer*
12 *furnishes the agency with the name of the recipi-*
13 *ent and notifies the agency that—*

14 “(i) *such recipient—*

15 “(I) *is fleeing to avoid prosecu-*
16 *tion, or custody or confinement after*
17 *conviction, under the laws of the place*
18 *from which the recipient flees, for a*
19 *crime, or an attempt to commit a*
20 *crime, which is a felony under the laws*
21 *of the place from which the recipient*
22 *flees, or which, in the case of the State*
23 *of New Jersey, is a high misdemeanor*
24 *under the laws of such State;*

1 “(II) is violating a condition of
2 probation or parole imposed under
3 Federal or State law; or

4 “(III) has information that is
5 necessary for the officer to conduct the
6 official duties of the officer; and

7 “(ii) the location or apprehension of
8 the recipient is within such official duties.

9 “(10) DENIAL OF ASSISTANCE FOR MINOR CHIL-
10 DREN WHO ARE ABSENT FROM THE HOME FOR A SIG-
11 NIFICANT PERIOD.—

12 “(A) IN GENERAL.—A State to which a
13 grant is made under section 402 may not use
14 any part of the grant to provide assistance for
15 a minor child who has been, or is expected by a
16 parent (or other caretaker relative) of the child
17 to be, absent from the home for a period of 45
18 consecutive days or, at the option of the State,
19 such period of not less than 30 and not more
20 than 90 consecutive days as the State may pro-
21 vide for in the State plan submitted pursuant to
22 section 401.

23 “(B) STATE AUTHORITY TO ESTABLISH
24 GOOD CAUSE EXCEPTIONS.—The State may es-
25 tablish such good cause exceptions to subpara-

1 *graph (A) as the State considers appropriate if*
2 *such exceptions are provided for in the State*
3 *plan submitted pursuant to section 401.*

4 “(C) *DENIAL OF ASSISTANCE FOR RELATIVE*
5 *WHO FAILS TO NOTIFY STATE AGENCY OF AB-*
6 *SENCE OF CHILD.—A State to which a grant is*
7 *made under section 402 may not use any part*
8 *of the grant to provide assistance for an individ-*
9 *ual who is a parent (or other caretaker relative)*
10 *of a minor child and who fails to notify the*
11 *agency administering the State program funded*
12 *under this part, of the absence of the minor child*
13 *from the home for the period specified in or pro-*
14 *vided for under subparagraph (A), by the end of*
15 *the 5-day period that begins with the date that*
16 *it becomes clear to the parent (or relative) that*
17 *the minor child will be absent for such period so*
18 *specified or provided for.*

19 “(11) *INCOME SECURITY PAYMENTS NOT TO BE*
20 *DISREGARDED IN DETERMINING THE AMOUNT OF AS-*
21 *SISTANCE TO BE PROVIDED TO A FAMILY.—If a State*
22 *to which a grant is made under section 402 uses any*
23 *part of the grant to provide assistance for any indi-*
24 *vidual who is receiving a payment under a State*
25 *plan for old-age assistance approved under section 2,*

1 *a State program funded under part B that provides*
2 *cash payments for foster care, or the supplemental se-*
3 *curity income program under title XVI, then the*
4 *State may not disregard the payment in determining*
5 *the amount of assistance to be provided to the family*
6 *of which the individual is a member under the State*
7 *program funded under this part.*

8 **“SEC. 408. PENALTIES.**

9 *“(a) IN GENERAL.—Subject to subsections (b), (c), and*
10 *(d):*

11 *“(1) FOR USE OF GRANT IN VIOLATION OF THIS*
12 *PART.—*

13 *“(A) GENERAL PENALTY.—If an audit con-*
14 *ducted under chapter 75 of title 31, United*
15 *States Code, finds that an amount paid to a*
16 *State under section 402 for a fiscal year has*
17 *been used in violation of this part, the Secretary*
18 *shall reduce the grant payable to the State under*
19 *section 402(a)(1) for the immediately succeeding*
20 *fiscal year quarter by the amount so used.*

21 *“(B) ENHANCED PENALTY FOR INTEN-*
22 *TIONAL VIOLATIONS.—If the State does not prove*
23 *to the satisfaction of the Secretary that the State*
24 *did not intend to use the amount in violation of*
25 *this part, the Secretary shall further reduce the*

1 *grant payable to the State under section*
2 *402(a)(1) for the immediately succeeding fiscal*
3 *year quarter by an amount equal to 5 percent of*
4 *the State family assistance grant.*

5 “(2) *FOR FAILURE TO SUBMIT REQUIRED RE-*
6 *PORT.—*

7 “(A) *IN GENERAL.—If the Secretary deter-*
8 *mines that a State has not, within 6 months*
9 *after the end of a fiscal year, submitted the re-*
10 *port required by section 410 for the fiscal year,*
11 *the Secretary shall reduce the grant payable to*
12 *the State under section 402(a)(1) for the imme-*
13 *diately succeeding fiscal year by an amount*
14 *equal to 4 percent of the State family assistance*
15 *grant.*

16 “(B) *RESCISSION OF PENALTY.—The Sec-*
17 *retary shall rescind a penalty imposed on a*
18 *State under subparagraph (A) with respect to a*
19 *report for a fiscal year if the State submits the*
20 *report before the end of the immediately succeed-*
21 *ing fiscal year.*

22 “(3) *FOR FAILURE TO SATISFY MINIMUM PAR-*
23 *TICIPATION RATES.—*

24 “(A) *IN GENERAL.—If the Secretary deter-*
25 *mines that a State to which a grant is made*

1 *under section 402 for a fiscal year has failed to*
2 *comply with section 406(a) for the fiscal year,*
3 *the Secretary shall reduce the grant payable to*
4 *the State under section 402(a)(1) for the imme-*
5 *diately succeeding fiscal year by an amount*
6 *equal to not more than 5 percent of the State*
7 *family assistance grant.*

8 “(B) *PENALTY BASED ON SEVERITY OF*
9 *FAILURE.—The Secretary shall impose reduc-*
10 *tions under subparagraph (A) based on the de-*
11 *gree of noncompliance.*

12 “(4) *FOR FAILURE TO PARTICIPATE IN THE IN-*
13 *COME AND ELIGIBILITY VERIFICATION SYSTEM.—If*
14 *the Secretary determines that a State program funded*
15 *under this part is not participating during a fiscal*
16 *year in the income and eligibility verification system*
17 *required by section 1137, the Secretary shall reduce*
18 *the grant payable to the State under section 402(a)(1)*
19 *for the immediately succeeding fiscal year by an*
20 *amount equal to not more than 2 percent of the State*
21 *family assistance grant.*

22 “(5) *FOR FAILURE TO COMPLY WITH PATERNITY*
23 *ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT*
24 *REQUIREMENTS UNDER PART D.—Notwithstanding*
25 *any other provision of this Act, if the Secretary deter-*

1 *mines that the State agency that administers a pro-*
2 *gram funded under this part does not enforce the pen-*
3 *alties requested by the agency administering part D*
4 *against recipients of assistance under the State pro-*
5 *gram who fail to cooperate in establishing paternity*
6 *in accordance with such part, the Secretary shall re-*
7 *duce the grant payable to the State under section*
8 *402(a)(1) for the immediately succeeding fiscal year*
9 *(without regard to this section) by not more than 5*
10 *percent.*

11 *“(6) FOR FAILURE TO TIMELY REPAY A FEDERAL*
12 *LOAN FUND FOR STATE WELFARE PROGRAMS.—If the*
13 *Secretary determines that a State has failed to repay*
14 *any amount borrowed from the Federal Loan Fund*
15 *for State Welfare Programs established under section*
16 *405 within the period of maturity applicable to the*
17 *loan, plus any interest owed on the loan, the Sec-*
18 *retary shall reduce the grant payable to the State*
19 *under section 402(a)(1) for the immediately succeed-*
20 *ing fiscal year quarter (without regard to this sec-*
21 *tion) by the outstanding loan amount, plus the inter-*
22 *est owed on the outstanding amount. The Secretary*
23 *may not forgive any outstanding loan amount or in-*
24 *terest owed on the outstanding amount.*

25 *“(7) MAINTENANCE OF EFFORT.—*

1 “(A) *IN GENERAL.*—*The Secretary shall re-*
2 *duce the grant payable to the State under section*
3 *402(a)(1) for fiscal year 1996, 1997, 1998, 1999,*
4 *or 2000 by the amount (if any) by which State*
5 *expenditures under the State program funded*
6 *under this part for the then immediately preced-*
7 *ing fiscal year is less than the applicable per-*
8 *centage of historic State expenditures.*

9 “(B) *DEFINITIONS.*—*As used in this para-*
10 *graph:*

11 “(i) *STATE EXPENDITURES UNDER*
12 *THE STATE PROGRAM FUNDED UNDER THIS*
13 *PART.*—

14 “(I) *IN GENERAL.*—*The term*
15 *‘State expenditures under the State*
16 *program funded under this part’*
17 *means, with respect to a State and a*
18 *fiscal year, the sum of the expenditures*
19 *by the State under the program for the*
20 *fiscal year for—*

21 “(aa) *cash assistance;*

22 “(bb) *child care assistance;*

23 “(cc) *education, job training,*
24 *and work;*

1 “(dd) *administrative costs;*
2 *and*

3 “(ee) *any other use of funds*
4 *allowable under section 403(a)(1).*

5 “(II) *EXCLUSION OF TRANSFERS*
6 *FROM OTHER STATE AND LOCAL PRO-*
7 *GRAMS.—Such term does not include*
8 *funding supplanted by transfers from*
9 *other State and local programs.*

10 “(ii) *APPLICABLE PERCENTAGE.—The*
11 *term ‘applicable percentage’ means—*

12 “(I) *for fiscal year 1996, 75 per-*
13 *cent; and*

14 “(II) *for fiscal years 1997, 1998,*
15 *1999, and 2000, 75 percent reduced (if*
16 *appropriate) in accordance with sub-*
17 *paragraph (C)(iii).*

18 “(iii) *HISTORIC STATE EXPENDI-*
19 *TURES.—The term ‘historic State expendi-*
20 *tures’ means, with respect to a State, the*
21 *lesser of—*

22 “(I) *the expenditures by the State*
23 *under parts A and F of this title (as*
24 *in effect during fiscal year 1994) for*
25 *fiscal year 1994; or*

1 “(II) the amount which bears the
2 same ratio to the amount described in
3 subclause (I) as—

4 “(aa) the State family assist-
5 ance grant for the immediately
6 preceding fiscal year; bears to

7 “(bb) the total amount of
8 Federal payments to the State
9 under section 403 (as in effect
10 during fiscal year 1994) for fiscal
11 year 1994.

12 “(iv) *EXPENDITURES BY THE STATE.*—
13 The term ‘expenditures by the State’ does
14 not include any expenditures from amounts
15 made available by the Federal Government,
16 State funds expended for the medicaid pro-
17 gram under title XIX or the MediGrant
18 program under title XXI, or any State
19 funds which are used to match Federal
20 funds or are expended as a condition of re-
21 ceiving Federal funds under Federal pro-
22 grams other than under title I.

23 “(C) *APPLICABLE PERCENTAGE REDUCED*
24 *FOR STATES WITH BEST OR MOST IMPROVED*
25 *PERFORMANCE IN CERTAIN AREAS.*—

1 “(i) *SCORING OF STATE PERFORM-*
2 *ANCE.—Beginning with fiscal year 1997,*
3 *the Secretary shall assign to each State a*
4 *score that represents the performance of the*
5 *State for the fiscal year in each category de-*
6 *scribed in clause (i).*

7 “(ii) *CATEGORIES.—The categories de-*
8 *scribed in this clause are the following:*

9 “(I) *Increasing the number of*
10 *families that received assistance under*
11 *a State program funded under this*
12 *part in the fiscal year, and that, dur-*
13 *ing the fiscal year, become ineligible*
14 *for such assistance as a result of*
15 *unsubsidized employment.*

16 “(II) *Reducing the percentage of*
17 *families that, within 18 months after*
18 *becoming ineligible for assistance*
19 *under the State program funded under*
20 *this part, become eligible for such as-*
21 *sistance.*

22 “(III) *Increasing the amount*
23 *earned by families that receive assist-*
24 *ance under this part.*

1 “(IV) *Reducing the percentage of*
2 *families in the State that receive as-*
3 *sistance under the State program fund-*
4 *ed under this part.*

5 “(iii) *REDUCTION OF MAINTENANCE OF*
6 *EFFORT THRESHOLD.—*

7 “(I) *REDUCTION FOR STATES*
8 *WITH 5 GREATEST SCORES IN EACH*
9 *CATEGORY OF PERFORMANCE.—The*
10 *applicable percentage for a State for a*
11 *fiscal year shall be reduced by 2 per-*
12 *centage points, with respect to each*
13 *category described in clause (ii) for*
14 *which the score assigned to the State*
15 *under clause (i) for the fiscal year is 1*
16 *of the 5 highest scores so assigned to*
17 *States.*

18 “(II) *REDUCTION FOR STATES*
19 *WITH 5 GREATEST IMPROVEMENT IN*
20 *SCORES IN EACH CATEGORY OF PER-*
21 *FORMANCE.—The applicable percentage*
22 *for a State for a fiscal year shall be re-*
23 *duced by 2 percentage points for a*
24 *State for a fiscal year, with respect to*
25 *each category described in clause (ii)*

1 for which the difference between the
2 score assigned to the State under clause
3 (i) for the fiscal year and the score so
4 assigned to the State for the imme-
5 diately preceding fiscal year is 1 of the
6 5 greatest such differences.

7 “(III) *LIMITATION ON REDUC-*
8 *TION.—The applicable percentage for a*
9 *State for a fiscal year may not be re-*
10 *duced by more than 8 percentage*
11 *points pursuant to this clause.*

12 “(8) *PENALTIES FOR SUBSTANTIAL NONCOMPLI-*
13 *ANCE OF STATE CHILD SUPPORT ENFORCEMENT PRO-*
14 *GRAM WITH REQUIREMENTS OF PART D.—*

15 “(A) *IN GENERAL.—If a State program op-*
16 *erated under part D is found as a result of a re-*
17 *view conducted under section 452(a)(4) not to*
18 *have complied substantially with the require-*
19 *ments of such part for any quarter, and the Sec-*
20 *retary determines that the program is not com-*
21 *plying substantially with such requirements at*
22 *the time the finding is made, the Secretary shall,*
23 *subject to paragraph (2), reduce the grant pay-*
24 *able to the State under section 402(a)(1) for the*
25 *quarter and each subsequent quarter that ends*

1 *before the 1st quarter throughout which the pro-*
2 *gram is found not to be in substantial compli-*
3 *ance with such requirements by—*

4 “(i) *not less than 1 nor more than 2*
5 *percent;*

6 “(ii) *not less than 2 nor more than 3*
7 *percent, if the finding is the 2nd consecutive*
8 *such finding made as a result of such a re-*
9 *view; or*

10 “(iii) *not less than 3 nor more than 5*
11 *percent, if the finding is the 3rd or a subse-*
12 *quent consecutive such finding made as a*
13 *result of such a review.*

14 “(B) *DISREGARD OF NONCOMPLIANCE*
15 *WHICH IS OF A TECHNICAL NATURE.—For pur-*
16 *poses of subparagraph (A) and section 452(a)(4),*
17 *a State which is not in full compliance with the*
18 *requirements of this part shall be determined to*
19 *be in substantial compliance with such require-*
20 *ments only if the Secretary determines that any*
21 *noncompliance with such requirements is of a*
22 *technical nature which does not adversely affect*
23 *the performance of the State’s program operated*
24 *under part D.*

1 “(9) *FOR FAILURE TO EXPEND ADDITIONAL*
2 *STATE FUNDS TO REPLACE GRANT REDUCTIONS.*—*If*
3 *the grant payable to a State under section 402(a)(1)*
4 *for a fiscal year is reduced by reason of any of the*
5 *preceding paragraphs of this subsection, the State*
6 *shall, during the immediately succeeding fiscal year,*
7 *expend under the State program funded under this*
8 *part an amount equal to the sum of—*

9 “(A) *the applicable percentage of the his-*
10 *toric State expenditures; and*

11 “(B) *105 percent of the total amount of*
12 *such reductions under such preceding para-*
13 *graphs.*

14 “(b) *REASONABLE CAUSE EXCEPTION.*—*The Secretary*
15 *may not impose a penalty on a State under subsection (a)*
16 *with respect to a requirement if the Secretary determines*
17 *that the State has reasonable cause for failing to comply*
18 *with the requirement.*

19 “(c) *CORRECTIVE COMPLIANCE PLAN.*—

20 “(1) *IN GENERAL.*—

21 “(A) *NOTIFICATION OF VIOLATION.*—*Not-*
22 *withstanding any other provision of law, the*
23 *Federal Government shall, before assessing a*
24 *penalty against a State under subsection (a), no-*
25 *tify the State of the violation of law for which*

1 *the penalty would be assessed and allow the*
2 *State the opportunity to enter into a corrective*
3 *compliance plan in accordance with this sub-*
4 *section which outlines how the State will correct*
5 *any such violations and how the State will in-*
6 *sure continuing compliance with the require-*
7 *ments of this part.*

8 “(B) *60-DAY PERIOD TO PROPOSE A COR-*
9 *RECTIVE COMPLIANCE PLAN.—Any State notified*
10 *under subparagraph (A) shall have 60 days in*
11 *which to submit to the Federal Government a*
12 *corrective compliance plan to correct any viola-*
13 *tions described in subparagraph (A).*

14 “(C) *ACCEPTANCE OF PLAN.—The Federal*
15 *Government shall have 60 days to accept or re-*
16 *ject the State’s corrective compliance plan and*
17 *may consult with the State during this period to*
18 *modify the plan. If the Federal Government does*
19 *not accept or reject the corrective compliance*
20 *plan during the period, the corrective compliance*
21 *plan shall be deemed to be accepted.*

22 “(2) *FAILURE TO CORRECT.—If a corrective*
23 *compliance plan is accepted by the Federal Govern-*
24 *ment, no penalty shall be imposed with respect to a*
25 *violation described in paragraph (1) if the State cor-*

1 *rects the violation pursuant to the plan. If a State*
2 *has not corrected the violation in a timely manner*
3 *under the plan, some or all of the penalty shall be as-*
4 *sessed.*

5 *“(d) LIMITATION ON AMOUNT OF PENALTY.—*

6 *“(1) IN GENERAL.—In imposing the penalties*
7 *described in subsection (a), the Secretary shall not re-*
8 *duce any quarterly payment to a State by more than*
9 *25 percent.*

10 *“(2) CARRYFORWARD OF UNRECOVERED PEN-*
11 *ALTIES.—To the extent that paragraph (1) prevents*
12 *the Secretary from recovering during a fiscal year the*
13 *full amount of all penalties imposed on a State under*
14 *subsection (a) for a prior fiscal year, the Secretary*
15 *shall apply any remaining amount of such penalties*
16 *to the grant payable to the State under section*
17 *402(a)(1) for the immediately succeeding fiscal year.*

18 **“SEC. 409. APPEAL OF ADVERSE DECISION.**

19 *“(a) IN GENERAL.—Within 5 days after the date any*
20 *adverse decision is made or action is taken under this part*
21 *with respect to a State, the Secretary shall notify the chief*
22 *executive officer of the State of the adverse decision or ac-*
23 *tion, including any decision with respect to the State plan*
24 *submitted under section 401 or the imposition of a penalty*
25 *under section 408.*

1 “(b) *ADMINISTRATIVE REVIEW OF ADVERSE DECI-*
2 *SION.*—

3 “(1) *IN GENERAL.*—*Within 60 days after the*
4 *date a State receives notice under this section of an*
5 *adverse decision, the State may appeal the decision,*
6 *in whole or in part, to the Departmental Appeals*
7 *Board established in the Department of Health and*
8 *Human Services (in this section referred to as the*
9 *‘Board’)* by filing an appeal with the Board.

10 “(2) *PROCEDURAL RULES.*—*The Board shall*
11 *consider a State’s appeal on the basis of such docu-*
12 *mentation as the State may submit and as the Board*
13 *may require to support the final decision of the*
14 *Board. In deciding whether to uphold an adverse de-*
15 *cision or any portion of such a decision, the Board*
16 *shall conduct a thorough review of the issues and take*
17 *into account all relevant evidence. The Board shall*
18 *make a final determination with respect to an appeal*
19 *filed under this paragraph not less than 60 days after*
20 *the date the appeal is filed.*

21 “(c) *JUDICIAL REVIEW OF ADVERSE DECISION.*—

22 “(1) *IN GENERAL.*—*Within 90 days after the*
23 *date of a final decision by the Board with respect to*
24 *an adverse decision regarding a State under this sec-*
25 *tion, the State may obtain judicial review of the final*

1 *decision (and the findings incorporated into the final*
2 *decision) by filing an action in—*

3 “(A) *the district court of the United States*
4 *for the judicial district in which the principal or*
5 *headquarters office of the State agency is located;*
6 *or*

7 “(B) *the United States District Court for*
8 *the District of Columbia.*

9 “(2) *PROCEDURAL RULES.—The district court in*
10 *which an action is filed shall review the final decision*
11 *of the Board on the record established in the adminis-*
12 *trative proceeding, in accordance with the standards*
13 *of review prescribed by subparagraphs (A) through*
14 *(E) of section 706(2) of title 5, United States Code.*
15 *The review shall be on the basis of the documents and*
16 *supporting data submitted to the Board.*

17 **“SEC. 410. DATA COLLECTION AND REPORTING.**

18 “(a) *GENERAL REPORTING REQUIREMENT.—Begin-*
19 *ning July 1, 1996, each State shall collect on a monthly*
20 *basis, and report to the Secretary on a quarterly basis, the*
21 *following information on the families receiving assistance*
22 *under the State program funded under this part:*

23 “(1) *The county of residence of the family.*

24 “(2) *Whether a child receiving such assistance or*
25 *an adult in the family is disabled.*

1 “(3) *The ages of the members of such families.*

2 “(4) *The number of individuals in the family,*
3 *and the relation of each family member to the young-*
4 *est child in the family.*

5 “(5) *The employment status and earnings of the*
6 *employed adult in the family.*

7 “(6) *The marital status of the adults in the fam-*
8 *ily, including whether such adults have never mar-*
9 *ried, are widowed, or are divorced.*

10 “(7) *The educational status of each adult in the*
11 *family.*

12 “(8) *The educational status of each child in the*
13 *family.*

14 “(9) *Whether the family received subsidized hous-*
15 *ing, assistance under the State MediGrant plan ap-*
16 *proved under title XXI, food stamps, or subsidized*
17 *child care, and if the latter 2, the amount received.*

18 “(10) *The number of months that the family has*
19 *received each type of assistance under the program.*

20 “(11) *If the adults participated in, and the num-*
21 *ber of hours per week of participation in, the follow-*
22 *ing activities:*

23 “(A) *Education.*

24 “(B) *Subsidized private sector employment.*

25 “(C) *Unsubsidized employment.*

1 “(D) *Public sector employment, work expe-*
2 *rience, or community service.*

3 “(E) *Job search.*

4 “(F) *Job skills training or on-the-job train-*
5 *ing.*

6 “(G) *Vocational education.*

7 “(12) *Information necessary to calculate partici-*
8 *pation rates under section 406.*

9 “(13) *The type and amount of assistance re-*
10 *ceived under the program, including the amount of*
11 *and reason for any reduction of assistance (including*
12 *sanctions).*

13 “(14) *From a sample of closed cases, whether the*
14 *family left the program, and if so, whether the family*
15 *left due to—*

16 “(A) *employment;*

17 “(B) *marriage;*

18 “(C) *the prohibition set forth in section*
19 *407(a)(8);*

20 “(D) *sanction; or*

21 “(E) *State policy.*

22 “(15) *Any amount of unearned income received*
23 *by any member of the family.*

24 “(16) *The citizenship of the members of the fam-*
25 *ily.*

1 “(b) *USE OF ESTIMATES.*—

2 “(1) *AUTHORITY.*—*A State may comply with*
3 *subsection (a) by submitting an estimate which is ob-*
4 *tained through the use of scientifically acceptable*
5 *sampling methods approved by the Secretary.*

6 “(2) *SAMPLING AND OTHER METHODS.*—*The*
7 *Secretary shall provide the States with such case sam-*
8 *pling plans and data collection procedures as the Sec-*
9 *retary deems necessary to produce statistically valid*
10 *estimates of the performance of State programs fund-*
11 *ed under this part. The Secretary may develop and*
12 *implement procedures for verifying the quality of*
13 *data submitted by the States.*

14 “(c) *REPORT ON USE OF FEDERAL FUNDS TO COVER*
15 *ADMINISTRATIVE COSTS AND OVERHEAD.*—*The report re-*
16 *quired by subsection (a) for a fiscal quarter shall include*
17 *a statement of the percentage of the funds paid to the State*
18 *under this part for the quarter that are used to cover ad-*
19 *ministrative costs or overhead.*

20 “(d) *REPORT ON STATE EXPENDITURES ON PRO-*
21 *GRAMS FOR NEEDY FAMILIES.*—*The report required by sub-*
22 *section (a) for a fiscal quarter shall include a statement*
23 *of the total amount expended by the State during the quar-*
24 *ter on programs for needy families.*

1 “(e) *REPORT ON NONCUSTODIAL PARENTS PARTICI-*
2 *PATING IN WORK ACTIVITIES.*—*The report required by sub-*
3 *section (a) for a fiscal quarter shall include the number of*
4 *noncustodial parents in the State who participated in work*
5 *activities (as defined in section 406(d)) during the quarter.*

6 “(f) *REPORT ON TRANSITIONAL SERVICES.*—*The re-*
7 *port required by subsection (a) for a fiscal quarter shall*
8 *include the total amount expended by the State during the*
9 *quarter to provide transitional services to a family that has*
10 *ceased to receive assistance under this part because of em-*
11 *ployment, along with a description of such services.*

12 “(g) *REPORT TO CONGRESS.*—*Not later than 6 months*
13 *after the end of fiscal year 1997, and each fiscal year there-*
14 *after, the Secretary shall transmit to the Congress a report*
15 *describing—*

16 “(1) *whether the States are meeting—*

17 “(A) *the participation rates described in*
18 *section 406(a); and*

19 “(B) *the objectives of—*

20 “(i) *increasing employment and earn-*
21 *ings of needy families, and child support*
22 *collections; and*

23 “(ii) *decreasing out-of-wedlock preg-*
24 *nancies and child poverty;*

1 “(2) the demographic and financial characteris-
2 tics of families applying for assistance, families re-
3 ceiving assistance, and families that become ineligible
4 to receive assistance;

5 “(3) the characteristics of each State program
6 funded under this part; and

7 “(4) the trends in employment and earnings of
8 needy families with minor children living at home.

9 **“SEC. 411. DIRECT FUNDING AND ADMINISTRATION BY IN-**
10 **DIAN TRIBES.**

11 “(a) GRANTS FOR INDIAN TRIBES.—

12 “(1) TRIBAL FAMILY ASSISTANCE GRANT.—

13 “(A) IN GENERAL.—For each of fiscal years
14 1997, 1998, 1999, and 2000, the Secretary shall
15 pay to each Indian tribe that has an approved
16 tribal family assistance plan a tribal family as-
17 sistance grant for the fiscal year in an amount
18 equal to the amount determined under subpara-
19 graph (B), and shall reduce the grant payable
20 under section 402(a)(1) to any State in which
21 lies the service area or areas of the Indian tribe
22 by that portion of the amount so determined that
23 is attributable to expenditures by the State.

24 “(B) AMOUNT DETERMINED.—

1 “(i) *IN GENERAL.*—*The amount deter-*
2 *mined under this subparagraph is an*
3 *amount equal to the total amount of the*
4 *Federal payments to a State or States*
5 *under section 403 for fiscal year 1994 (as*
6 *in effect during such fiscal year) attrib-*
7 *utable to expenditures by the State or States*
8 *under parts A and F of this title (as so in*
9 *effect) for fiscal year 1994 for Indian fami-*
10 *lies residing in the service area or areas*
11 *identified by the Indian tribe pursuant to*
12 *subsection (b)(1)(C).*

13 “(ii) *USE OF STATE SUBMITTED*
14 *DATA.*—

15 “(I) *IN GENERAL.*—*The Secretary*
16 *shall use State submitted data to make*
17 *each determination under clause (i).*

18 “(II) *DISAGREEMENT WITH DE-*
19 *TERMINATION.*—*If an Indian tribe or*
20 *tribal organization disagrees with*
21 *State submitted data described under*
22 *subclause (I), the Indian tribe or tribal*
23 *organization may submit to the Sec-*
24 *retary such additional information as*
25 *may be relevant to making the deter-*

1 *mination under clause (i) and the Sec-*
2 *retary may consider such information*
3 *before making such determination.*

4 “(2) *GRANTS FOR INDIAN TRIBES THAT RE-*
5 *CEIVED JOBS FUNDS.—*

6 “(A) *IN GENERAL.—The Secretary shall pay*
7 *to each eligible Indian tribe for each of fiscal*
8 *years 1996, 1997, 1998, 1999, and 2000 a grant*
9 *in an amount equal to the amount received by*
10 *the Indian tribe in fiscal year 1994 under sec-*
11 *tion 482(i) (as in effect during fiscal year 1994).*

12 “(B) *ELIGIBLE INDIAN TRIBE.—For pur-*
13 *poses of subparagraph (A), the term ‘eligible In-*
14 *Indian tribe’ means an Indian tribe or Alaska Na-*
15 *tive organization that conducted a job opportuni-*
16 *ties and basic skills training program in fiscal*
17 *year 1995 under section 482(i) (as in effect dur-*
18 *ing such fiscal year).*

19 “(C) *USE OF GRANT.—Each Indian tribe to*
20 *which a grant is made under this paragraph*
21 *shall use the grant for the purpose of operating*
22 *a program to make work activities available to*
23 *members of the Indian tribe.*

24 “(D) *APPROPRIATION.—Out of any money*
25 *in the Treasury of the United States not other-*

1 *wise appropriated, there are appropriated*
2 *\$7,638,474 for each fiscal year specified in sub-*
3 *paragraph (A) for grants under subparagraph*
4 *(A).*

5 “(b) *3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—*

6 “(1) *IN GENERAL.—Any Indian tribe that de-*
7 *sires to receive a tribal family assistance grant shall*
8 *submit to the Secretary a 3-year tribal family assist-*
9 *ance plan that—*

10 “(A) *outlines the Indian tribe’s approach to*
11 *providing welfare-related services for the 3-year*
12 *period, consistent with this section;*

13 “(B) *specifies whether the welfare-related*
14 *services provided under the plan will be provided*
15 *by the Indian tribe or through agreements, con-*
16 *tracts, or compacts with intertribal consortia,*
17 *States, or other entities;*

18 “(C) *identifies the population and service*
19 *area or areas to be served by such plan;*

20 “(D) *provides that a family receiving as-*
21 *sistance under the plan may not receive duplica-*
22 *tive assistance from other State or tribal pro-*
23 *grams funded under this part;*

24 “(E) *identifies the employment opportuni-*
25 *ties in or near the service area or areas of the*

1 *Indian tribe and the manner in which the In-*
2 *Indian tribe will cooperate and participate in en-*
3 *hancing such opportunities for recipients of as-*
4 *sistance under the plan consistent with any ap-*
5 *plicable State standards; and*

6 *“(F) applies the fiscal accountability provi-*
7 *sions of section 5(f)(1) of the Indian Self-Deter-*
8 *mination and Education Assistance Act (25*
9 *U.S.C. 450c(f)(1)), relating to the submission of*
10 *a single-agency audit report required by chapter*
11 *75 of title 31, United States Code.*

12 *“(2) APPROVAL.—The Secretary shall approve*
13 *each tribal family assistance plan submitted in ac-*
14 *cordance with paragraph (1).*

15 *“(3) CONSORTIUM OF TRIBES.—Nothing in this*
16 *section shall preclude the development and submission*
17 *of a single tribal family assistance plan by the par-*
18 *ticipating Indian tribes of an intertribal consortium.*

19 *“(c) MINIMUM WORK PARTICIPATION REQUIREMENTS*
20 *AND TIME LIMITS.—The Secretary, with the participation*
21 *of Indian tribes, shall establish for each Indian tribe receiv-*
22 *ing a grant under this section minimum work participa-*
23 *tion requirements, appropriate time limits for receipt of*
24 *welfare-related services under the grant, and penalties*
25 *against individuals—*

1 “(1) *consistent with the purposes of this section;*

2 “(2) *consistent with the economic conditions and*
3 *resources available to each tribe; and*

4 “(3) *similar to comparable provisions in section*
5 *406(d).*

6 “(d) *EMERGENCY ASSISTANCE.—Nothing in this sec-*
7 *tion shall preclude an Indian tribe from seeking emergency*
8 *assistance from any Federal loan program or emergency*
9 *fund.*

10 “(e) *ACCOUNTABILITY.—Nothing in this section shall*
11 *be construed to limit the ability of the Secretary to main-*
12 *tain program funding accountability consistent with—*

13 “(1) *generally accepted accounting principles;*
14 *and*

15 “(2) *the requirements of the Indian Self-Deter-*
16 *mination and Education Assistance Act (25 U.S.C.*
17 *450 et seq.).*

18 “(f) *PENALTIES.—*

19 “(1) *Subsections (a)(1), (a)(6), and (b) of section*
20 *408, shall apply to an Indian tribe with an approved*
21 *tribal assistance plan in the same manner as such*
22 *subsections apply to a State.*

23 “(2) *Section 408(a)(3) shall apply to an Indian*
24 *tribe with an approved tribal assistance plan by sub-*
25 *stituting ‘meet minimum work participation require-*

1 *ments established under section 411(c)' for 'comply*
2 *with section 406(a)'.*

3 “(g) *DATA COLLECTION AND REPORTING.*—Section
4 *410 shall apply to an Indian tribe with an approved tribal*
5 *family assistance plan.*

6 “(h) *SPECIAL RULE FOR INDIAN TRIBES IN ALAS-*
7 *KA.*—

8 “(1) *IN GENERAL.*—Notwithstanding any other
9 *provision of this section, and except as provided in*
10 *paragraph (2), a tribal organization in the State of*
11 *Alaska that receives a tribal family assistance grant*
12 *under this section shall use the grant to operate a*
13 *program in accordance with the requirements com-*
14 *parable to the requirements applicable to the program*
15 *of the State of Alaska funded under this part. Com-*
16 *parability of programs shall be established on the*
17 *basis of program criteria developed by the Secretary*
18 *in consultation with the State of Alaska and the trib-*
19 *al organizations.*

20 “(2) *WAIVER.*—An Indian tribe described in
21 *paragraph (1) may apply to the appropriate State*
22 *authority to receive a waiver of the requirement of*
23 *paragraph (1).*

1 **“SEC. 412. RESEARCH, EVALUATIONS, AND NATIONAL STUD-**
2 **IES.**

3 “(a) *RESEARCH.*—*The Secretary shall conduct re-*
4 *search on the benefits, effects, and costs of operating dif-*
5 *ferent State programs funded under this part, including*
6 *time limits relating to eligibility for assistance. The re-*
7 *search shall include studies on the effects of different pro-*
8 *grams and the operation of such programs on welfare de-*
9 *pendency, illegitimacy, teen pregnancy, employment rates,*
10 *child well-being, and any other area the Secretary deems*
11 *appropriate. The Secretary shall also conduct research on*
12 *the costs and benefits of State activities under section 406.*

13 “(b) *DEVELOPMENT AND EVALUATION OF INNOVATIVE*
14 *APPROACHES TO REDUCING WELFARE DEPENDENCY AND*
15 *INCREASING CHILD WELL-BEING.*—

16 “(1) *IN GENERAL.*—*The Secretary may assist*
17 *States in developing, and shall evaluate, innovative*
18 *approaches for reducing welfare dependency and in-*
19 *creasing the well-being of minor children living at*
20 *home with respect to recipients of assistance under*
21 *programs funded under this part. The Secretary may*
22 *provide funds for training and technical assistance to*
23 *carry out the approaches developed pursuant to this*
24 *paragraph.*

25 “(2) *EVALUATIONS.*—*In performing the evalua-*
26 *tions under paragraph (1), the Secretary shall, to the*

1 *maximum extent feasible, use random assignment as*
2 *an evaluation methodology.*

3 “(c) *DISSEMINATION OF INFORMATION.*—*The Sec-*
4 *retary shall develop innovative methods of disseminating*
5 *information on any research, evaluations, and studies con-*
6 *ducted under this section, including the facilitation of the*
7 *sharing of information and best practices among States and*
8 *localities through the use of computers and other tech-*
9 *nologies.*

10 “(d) *ANNUAL RANKING OF STATES AND REVIEW OF*
11 *MOST AND LEAST SUCCESSFUL WORK PROGRAMS.*—

12 “(1) *ANNUAL RANKING OF STATES.*—*The Sec-*
13 *retary shall rank annually the States to which grants*
14 *are paid under section 402 in the order of their suc-*
15 *cess in placing recipients of assistance under the*
16 *State program funded under this part into long-term*
17 *private sector jobs, reducing the overall welfare case-*
18 *load, and, when a practicable method for calculating*
19 *this information becomes available, diverting individ-*
20 *uals from formally applying to the State program*
21 *and receiving assistance. In ranking States under this*
22 *subsection, the Secretary shall take into account the*
23 *average number of minor children living at home in*
24 *families in the State that have incomes below the pov-*

1 *erty line and the amount of funding provided each*
2 *State for such families.*

3 “(2) *ANNUAL REVIEW OF MOST AND LEAST SUC-*
4 *CESSFUL WORK PROGRAMS.—The Secretary shall re-*
5 *view the programs of the 3 States most recently*
6 *ranked highest under paragraph (1) and the 3 States*
7 *most recently ranked lowest under paragraph (1) that*
8 *provide parents with work experience, assistance in*
9 *finding employment, and other work preparation ac-*
10 *tivities and support services to enable the families of*
11 *such parents to leave the program and become self-suf-*
12 *ficient.*

13 “(e) *ANNUAL RANKING OF STATES AND REVIEW OF IS-*
14 *SUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—*

15 “(1) *ANNUAL RANKING OF STATES.—*

16 “(A) *IN GENERAL.—The Secretary shall an-*
17 *nually rank States to which grants are made*
18 *under section 402 based on the following ranking*
19 *factors:*

20 “(i) *ABSOLUTE OUT-OF-WEDLOCK RA-*
21 *TIOS.—The ratio represented by—*

22 “(I) *the total number of out-of-*
23 *wedlock births in families receiving as-*
24 *sistance under the State program*
25 *under this part in the State for the*

1 *most recent fiscal year for which infor-*
2 *mation is available; over*

3 *“(II) the total number of births in*
4 *families receiving assistance under the*
5 *State program under this part in the*
6 *State for such year.*

7 *“(i) NET CHANGES IN THE OUT-OF-*
8 *WEDLOCK RATIO.—The difference between*
9 *the ratio described in subparagraph (A)(i)*
10 *for the most recent fiscal year for which in-*
11 *formation is available and such State’s*
12 *ratio determined for the preceding year.*

13 *“(2) ANNUAL REVIEW.—The Secretary shall re-*
14 *view the programs of the 5 States most recently*
15 *ranked highest under paragraph (1) and the 5 States*
16 *most recently ranked the lowest under paragraph (1).*

17 *“(f) STATE-INITIATED STUDIES.—A State shall be eli-*
18 *gible to receive funding to evaluate the State’s family assist-*
19 *ance program funded under this part if—*

20 *“(1) the State submits a proposal to the Sec-*
21 *retary for such evaluation,*

22 *“(2) the Secretary determines that the design*
23 *and approach of the evaluation is rigorous and is*
24 *likely to yield information that is credible and will*
25 *be useful to other States, and*

1 “(3) *unless otherwise waived by the Secretary,*
2 *the State provides a non-Federal share of at least 10*
3 *percent of the cost of such study.*

4 “(g) *FUNDING OF STUDIES AND DEMONSTRATIONS.—*

5 “(1) *IN GENERAL.—Out of any money in the*
6 *Treasury of the United States not otherwise appro-*
7 *priated, there are appropriated \$15,000,000 for each*
8 *fiscal year specified in section 402(a)(1) for the pur-*
9 *pose of paying—*

10 “(A) *the cost of conducting the research de-*
11 *scribed in subsection (a);*

12 “(B) *the cost of developing and evaluating*
13 *innovative approaches for reducing welfare de-*
14 *pendency and increasing the well-being of minor*
15 *children under subsection (b);*

16 “(C) *the Federal share of any State-initi-*
17 *ated study approved under subsection (f); and*

18 “(D) *an amount determined by the Sec-*
19 *retary to be necessary to operate and evaluate*
20 *demonstration projects, relating to this part, that*
21 *are in effect or approved under section 1115 as*
22 *of September 30, 1995, and are continued after*
23 *such date.*

24 “(2) *ALLOCATION.—Of the amount appropriated*
25 *under paragraph (1) for a fiscal year—*

1 “(A) 50 percent shall be allocated for the
2 purposes described in subparagraphs (A) and
3 (B) of paragraph (1), and

4 “(B) 50 percent shall be allocated for the
5 purposes described in subparagraphs (C) and
6 (D) of paragraph (1).

7 **“SEC. 413. STUDY BY THE CENSUS BUREAU.**

8 “(a) *IN GENERAL.*—The Bureau of the Census shall
9 expand the Survey of Income and Program Participation
10 as necessary to obtain such information as will enable in-
11 terested persons to evaluate the impact of the amendments
12 made by subtitle A of the Personal Responsibility and Work
13 Opportunity Act of 1995 on a random national sample of
14 recipients of assistance under State programs funded under
15 this part and (as appropriate) other low income families,
16 and in doing so, shall pay particular attention to the issues
17 of out-of-wedlock birth, welfare dependency, the beginning
18 and end of welfare spells, and the causes of repeat welfare
19 spells.

20 “(b) *APPROPRIATION.*—Out of any money in the
21 Treasury of the United States not otherwise appropriated,
22 there are appropriated \$10,000,000 for each of fiscal years
23 1996, 1997, 1998, 1999, and 2000 for payment to the Bu-
24 reau of the Census to carry out subsection (a).

1 **“SEC. 414. WAIVERS.**2 “(a) *CONTINUATION OF WAIVERS.*—

3 “(1) *IN GENERAL.*—*Except as provided in para-*
4 *graph (2), if any waiver granted to a State under sec-*
5 *tion 1115 or otherwise which relates to the provision*
6 *of assistance under a State plan under this part is*
7 *in effect or approved by the Secretary as of October*
8 *1, 1995, the amendments made by the Personal Re-*
9 *sponsibility and Work Opportunity Act of 1995 shall*
10 *not apply with respect to the State before the expira-*
11 *tion (determined without regard to any extensions) of*
12 *the waiver to the extent such amendments are incon-*
13 *sistent with the terms of the waiver.*

14 “(2) *FINANCING LIMITATION.*—*Notwithstanding*
15 *any other provision of law, beginning with fiscal year*
16 *1996, a State operating under a waiver described in*
17 *paragraph (1) shall receive the payment described for*
18 *such State for such fiscal year under section 402, in*
19 *lieu of any other payment provided for in the waiver.*

20 “(b) *STATE OPTION TO TERMINATE WAIVER.*—

21 “(1) *IN GENERAL.*—*A State may terminate a*
22 *waiver described in subsection (a) before the expira-*
23 *tion of the waiver.*

24 “(2) *REPORT.*—*A State which terminates a*
25 *waiver under paragraph (1) shall submit a report to*
26 *the Secretary summarizing the waiver and any avail-*

1 *able information concerning the result or effect of*
2 *such waiver.*

3 “(3) *HOLD HARMLESS PROVISION.*—

4 “(A) *IN GENERAL.*—*Notwithstanding any*
5 *other provision of law, a State that, not later*
6 *than the date described in subparagraph (B),*
7 *submits a written request to terminate a waiver*
8 *described in subsection (a) shall be held harmless*
9 *for accrued cost neutrality liabilities incurred*
10 *under the terms and conditions of such waiver.*

11 “(B) *DATE DESCRIBED.*—*The date described*
12 *in this subparagraph is the later of—*

13 “(i) *January 1, 1996; or*

14 “(ii) *90 days following the adjourn-*
15 *ment of the first regular session of the State*
16 *legislature that begins after the date of the*
17 *enactment of the Personal Responsibility*
18 *and Work Opportunity Act of 1995.*

19 “(c) *SECRETARIAL ENCOURAGEMENT OF CURRENT*
20 *WAIVERS.*—*The Secretary shall encourage any State oper-*
21 *ating a waiver described in subsection (a) to continue such*
22 *waiver and to evaluate, using random sampling and other*
23 *characteristics of accepted scientific evaluations, the result*
24 *or effect of such waiver.*

1 “(d) *CONTINUATION OF INDIVIDUAL WAIVERS.—A*
2 *State may elect to continue one or more individual waivers*
3 *described in subsection (a)(1).*

4 **“SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.**

5 *“The programs under this part and part D shall be*
6 *administered by an Assistant Secretary for Family Support*
7 *within the Department of Health and Human Services, who*
8 *shall be appointed by the President, by and with the advice*
9 *and consent of the Senate, and who shall be in addition*
10 *to any other Assistant Secretary of Health and Human*
11 *Services provided for by law.*

12 **“SEC. 416. LIMITATION ON FEDERAL AUTHORITY.**

13 *“No officer or employee of the Federal Government*
14 *may regulate the conduct of States under this part or en-*
15 *force any provision of this part, except to the extent ex-*
16 *pressly provided in this part.*

17 **“SEC. 417. DEFINITIONS.**

18 *“As used in this part:*

19 “(1) *ADULT.—The term ‘adult’ means an indi-*
20 *vidual who is not a minor child.*

21 “(2) *MINOR CHILD.—The term ‘minor child’*
22 *means an individual who—*

23 “(A) *has not attained 18 years of age; or*

24 “(B) *has not attained 19 years of age and*
25 *is a full-time student in a secondary school (or*

1 *in the equivalent level of vocational or technical*
2 *training).*

3 “(3) *FISCAL YEAR.*—*The term ‘fiscal year’*
4 *means any 12-month period ending on September 30*
5 *of a calendar year.*

6 “(4) *INDIAN, INDIAN TRIBE, AND TRIBAL ORGANI-*
7 *ZATION.*—

8 “(A) *IN GENERAL.*—*Except as provided in*
9 *subparagraph (B), the terms ‘Indian’, ‘Indian*
10 *tribe’, and ‘tribal organization’ have the mean-*
11 *ing given such terms by section 4 of the Indian*
12 *Self-Determination and Education Assistance*
13 *Act (25 U.S.C. 450b).*

14 “(B) *SPECIAL RULE FOR INDIAN TRIBES IN*
15 *ALASKA.*—*The term ‘Indian tribe’ means, with*
16 *respect to the State of Alaska, only the following*
17 *Alaska Native regional nonprofit corporations:*

18 “(i) *Arctic Slope Native Association.*

19 “(ii) *Kawerak, Inc.*

20 “(iii) *Maniilaq Association.*

21 “(iv) *Association of Village Council*
22 *Presidents.*

23 “(v) *Tanana Chiefs Conference.*

24 “(vi) *Cook Inlet Tribal Council.*

25 “(vii) *Bristol Bay Native Association.*

1 “(viii) *Aleutian and Pribilof Island*
2 *Association.*

3 “(ix) *Chugachmuit.*

4 “(x) *Tlingit Haida Central Council.*

5 “(xi) *Kodiak Area Native Association.*

6 “(xii) *Copper River Native Associa-*
7 *tion.*

8 “(xiii) *Metlakatla Indian Tribe.*

9 “(5) *STATE.—Except as otherwise specifically*
10 *provided, the term ‘State’ includes the several States,*
11 *the District of Columbia, the Commonwealth of Puer-*
12 *to Rico, the United States Virgin Islands, Guam, and*
13 *American Samoa.”.*

14 **SEC. 12102. REPORT ON DATA PROCESSING.**

15 “(a) *IN GENERAL.—Within 6 months after the date of*
16 *the enactment of this Act, the Secretary of Health and*
17 *Human Services shall prepare and submit to the Congress*
18 *a report on—*

19 “(1) *the status of the automated data processing*
20 *systems operated by the States to assist management*
21 *in the administration of State programs under part*
22 *A of title IV of the Social Security Act (whether in*
23 *effect before or after October 1, 1995); and*

24 “(2) *what would be required to establish a system*
25 *capable of—*

1 (A) tracking participants in public pro-
2 grams over time; and

3 (B) checking case records of the States to de-
4 termine whether individuals are participating in
5 public programs of 2 or more States.

6 (b) *PREFERRED CONTENTS.*—The report required by
7 subsection (a) should include—

8 (1) a plan for building on the automated data
9 processing systems of the States to establish a system
10 with the capabilities described in subsection (a)(2);
11 and

12 (2) an estimate of the amount of time required
13 to establish such a system and of the cost of establish-
14 ing such a system.

15 **SEC. 12103. CONFORMING AMENDMENTS TO THE SOCIAL**
16 **SECURITY ACT.**

17 (a) *AMENDMENTS TO TITLE II.*—

18 (1) Section 205(c)(2)(C)(vi) (42 U.S.C.
19 405(c)(2)(C)(vi)), as so redesignated by section
20 321(a)(9)(B) of the Social Security Independence and
21 Program Improvements Act of 1994, is amended—

22 (A) by inserting “an agency administering
23 a program funded under part A of title IV or”
24 before “an agency operating”; and

1 (B) by striking “A or D of title IV of this
2 Act” and inserting “D of such title”.

3 (2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is
4 amended by inserting “under a State program funded
5 under” before “part A of title IV”.

6 (b) AMENDMENTS TO PART D OF TITLE IV.—

7 (1) Section 451 (42 U.S.C. 651) is amended by
8 striking “aid” and inserting “assistance under a
9 State program funded”.

10 (2) Section 452(a)(10)(C) (42 U.S.C.
11 652(a)(10)(C)) is amended—

12 (A) by striking “aid to families with de-
13 pendent children” and inserting “assistance
14 under a State program funded under part A”;

15 (B) by striking “such aid” and inserting
16 “such assistance”; and

17 (C) by striking “under section 402(a)(26) or
18 471(a)(17)” and inserting “pursuant to section
19 408(a)(4) or under section 471(a)(17)”.

20 (3) Section 452(a)(10)(F) (42 U.S.C.
21 652(a)(10)(F)) is amended—

22 (A) by striking “aid under a State plan ap-
23 proved” and inserting “assistance under a State
24 program funded”; and

1 (B) by striking “in accordance with the
2 standards referred to in section
3 402(a)(26)(B)(ii)” and inserting “by the State”.

4 (4) Section 452(b) (42 U.S.C. 652(b)) is amend-
5 ed in the first sentence by striking “aid under the
6 State plan approved under part A” and inserting
7 “assistance under the State program funded under
8 part A”.

9 (5) Section 452(d)(3)(B)(i) (42 U.S.C.
10 652(d)(3)(B)(i)) is amended by striking “1115(c)”
11 and inserting “1115(b)”.

12 (6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C.
13 652(g)(2)(A)(ii)(I)) is amended by striking “aid is
14 being paid under the State’s plan approved under
15 part A or E” and inserting “assistance is being pro-
16 vided under the State program funded under part A
17 or aid is being paid under the State’s plan approved
18 under part E”.

19 (7) Section 452(g)(2)(A) (42 U.S.C.
20 652(g)(2)(A)) is amended in the matter following
21 clause (iii) by striking “aid was being paid under the
22 State’s plan approved under part A or E” and insert-
23 ing “assistance was being provided under the State
24 program funded under part A or aid was being paid
25 under the State’s plan approved under part E”.

1 (8) *Section 452(g)(2) (42 U.S.C. 652(g)(2)) is*
2 *amended in the matter following subparagraph (B)—*

3 (A) *by striking “who is a dependent child”*
4 *and inserting “with respect to whom assistance*
5 *is being provided under the State program fund-*
6 *ed under part A”;*

7 (B) *by inserting “by the State agency ad-*
8 *ministering the State plan approved under this*
9 *part” after “found”; and*

10 (C) *by striking “under section 402(a)(26)”*
11 *and inserting “with the State in establishing pa-*
12 *ternity”.*

13 (9) *Section 452(h) (42 U.S.C. 652(h)) is amend-*
14 *ed by striking “under section 402(a)(26)” and insert-*
15 *ing “pursuant to section 408(a)(4)”.*

16 (10) *Section 453(c)(3) (42 U.S.C. 653(c)(3)) is*
17 *amended by striking “aid under part A of this title”*
18 *and inserting “assistance under a State program*
19 *funded under part A”.*

20 (11) *Section 454(5)(A) (42 U.S.C. 654(5)(A)) is*
21 *amended—*

22 (A) *by striking “under section 402(a)(26)”*
23 *and inserting “pursuant to section 408(a)(4)”;*
24 *and*

1 (B) by striking “; except that this para-
2 graph shall not apply to such payments for any
3 month following the first month in which the
4 amount collected is sufficient to make such fam-
5 ily ineligible for assistance under the State plan
6 approved under part A;” and inserting a
7 comma.

8 (12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is
9 amended by striking “aid under a State plan ap-
10 proved” and inserting “assistance under a State pro-
11 gram funded”.

12 (13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is
13 amended by striking “under section 402(a)(26)”.

14 (14) Section 466(a)(3)(B) (42 U.S.C.
15 666(a)(3)(B)) is amended by striking “402(a)(26)”
16 and inserting “408(a)(4)”.

17 (15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is
18 amended by striking “aid” and inserting “assistance
19 under a State program funded”.

20 (16) Section 469(a) (42 U.S.C. 669(a)) is
21 amended—

22 (A) by striking “aid under plans approved”
23 and inserting “assistance under State programs
24 funded”; and

1 (B) by striking “such aid” and inserting
2 “such assistance”.

3 (c) *REPEAL OF PART F OF TITLE IV.*—Part F of title
4 *IV* (42 U.S.C. 681–687) is repealed.

5 (d) *AMENDMENT TO TITLE X.*—Section 1002(a)(7) (42
6 U.S.C. 1202(a)(7)) is amended by striking “aid to families
7 with dependent children under the State plan approved
8 under section 402 of this Act” and inserting “assistance
9 under a State program funded under part A of title IV”.

10 (e) *AMENDMENTS TO TITLE XI.*—

11 (1) Section 1108 (42 U.S.C. 1308) is amended to
12 read as follows:

13 **“SEC. 1108. LIMITATION ON PAYMENTS TO PUERTO RICO,**
14 **THE VIRGIN ISLANDS, GUAM, AND AMERICAN**
15 **SAMOA.**

16 “(a) *IN GENERAL.*—Notwithstanding any other provi-
17 sion of this Act, the total amount certified by the Secretary
18 of Health and Human Services under titles I, X, XIV, and
19 XVI, and under parts A and B of title IV for payment to
20 any territory for a fiscal year shall not exceed the ceiling
21 amount for the territory for the fiscal year.

22 “(b) *DEFINITIONS.*—As used in this section:

23 “(1) *TERRITORY.*—The term ‘territory’ means
24 Puerto Rico, the Virgin Islands, Guam, and Amer-
25 ican Samoa.

1 “(2) *CEILING AMOUNT.*—*The term ‘ceiling*
2 *amount’ means, with respect to a territory and a fis-*
3 *cal year, the mandatory ceiling amount with respect*
4 *to the territory plus the discretionary ceiling amount*
5 *with respect to the territory, reduced for the fiscal*
6 *year in accordance with subsection (e).*

7 “(3) *MANDATORY CEILING AMOUNT.*—*The term*
8 *‘mandatory ceiling amount’ means—*

9 “(A) \$103,538,000 with respect to for Puer-
10 *to Rico;*

11 “(B) \$4,812,000 with respect to Guam;

12 “(C) \$3,677,397 with respect to the Virgin
13 *Islands; and*

14 “(D) \$1,122,095 with respect to American
15 *Samoa.*

16 “(4) *DISCRETIONARY CEILING AMOUNT.*—*The*
17 *term ‘discretionary ceiling amount’ means, with re-*
18 *spect to a territory, the dollar amount specified in*
19 *subsection (c)(2) with respect to the territory.*

20 “(c) *DISCRETIONARY GRANTS.*—

21 “(1) *IN GENERAL.*—*The Secretary shall make a*
22 *grant to each territory for any fiscal year in the*
23 *amount appropriated pursuant to paragraph (2) for*
24 *the fiscal year for payment to the territory.*

1 “(2) *USE OF GRANT.*—*Any territory to which a*
2 *grant is made under paragraph (1) may expend the*
3 *amount under any program operated or funded under*
4 *any provision of law specified in subsection (a).*

5 “(3) *LIMITATION ON AUTHORIZATION OF APPRO-*
6 *PRIATIONS.*—*For grants under paragraph (1), there*
7 *are authorized to be appropriated to the Secretary for*
8 *each fiscal year—*

9 “(A) \$7,951,000 for payment to Puerto
10 Rico;

11 “(B) \$345,000 for payment to Guam;

12 “(C) \$275,000 for payment to the Virgin Is-
13 lands; and

14 “(D) \$190,000 for payment to American
15 Samoa.

16 “(d) *AUTHORITY TO TRANSFER FUNDS AMONG PRO-*
17 *GRAMS.*—*Notwithstanding any other provision of this Act,*
18 *any territory to which an amount is paid under any provi-*
19 *sion of law specified in subsection (a) may use part or all*
20 *of the amount to carry out any program operated by the*
21 *territory, or funded, under any other such provision of law.*

22 “(e) *MAINTENANCE OF EFFORT.*—*The ceiling amount*
23 *with respect to a territory shall be reduced for a fiscal year*
24 *by an amount equal to the amount (if any) by which—*

1 “(1) the total amount expended by the territory
2 under all programs of the territory operated pursuant
3 to the provisions of law specified in subsection (a) (as
4 such provisions were in effect for fiscal year 1995) for
5 fiscal year 1995; exceeds

6 “(2) the total amount expended by the territory
7 under all programs of the territory that are funded
8 under the provisions of law specified in subsection (a)
9 for the fiscal year that immediately precedes the fiscal
10 year referred to in the matter preceding paragraph
11 (1).”.

12 (2) Section 1109 (42 U.S.C. 1309) is amended
13 by striking “or part A of title IV,”.

14 (3) Section 1115 (42 U.S.C. 1315) is amended—

15 (A) in subsection (a)(2)—

16 (i) by inserting “(A)” after “(2)”;

17 (ii) by striking “403,”;

18 (iii) by striking the period at the end
19 and inserting “, and”; and

20 (iv) by adding at the end the following
21 new subparagraph:

22 “(B) costs of such project which would not other-
23 wise be a permissible use of funds under part A of
24 title IV and which are not included as part of the
25 costs of projects under section 1110, shall to the extent

1 *and for the period prescribed by the Secretary, be re-*
2 *garded as a permissible use of funds under such*
3 *part.”; and*

4 *(B) in subsection (c)(3), by striking “under*
5 *the program of aid to families with dependent*
6 *children” and inserting “part A of such title”.*

7 *(4) Section 1116 (42 U.S.C. 1316) is amended—*

8 *(A) in each of subsections (a)(1), (b), and*
9 *(d), by striking “or part A of title IV,”; and*

10 *(B) in subsection (a)(3), by striking “404.”.*

11 *(5) Section 1118 (42 U.S.C. 1318) is amended—*

12 *(A) by striking “403(a),”;*

13 *(B) by striking “and part A of title IV,”;*

14 *and*

15 *(C) by striking “, and shall, in the case of*
16 *American Samoa, mean 75 per centum with re-*
17 *spect to part A of title IV”.*

18 *(6) Section 1119 (42 U.S.C. 1319) is amended—*

19 *(A) by striking “or part A of title IV”; and*

20 *(B) by striking “403(a),”.*

21 *(7) Section 1133(a) (42 U.S.C. 1320b–3(a)) is*
22 *amended by striking “or part A of title IV,”.*

23 *(8) Section 1136 (42 U.S.C. 1320b–6) is re-*
24 *pealed.*

1 (9) *Section 1137 (42 U.S.C. 1320b-7) is amend-*
2 *ed—*

3 (A) *in subsection (b), by striking paragraph*
4 *(1) and inserting the following:*

5 “(1) *any State program funded under part A of*
6 *title IV of this Act;”*; and

7 (B) *in subsection (d)(1)(B)—*

8 (i) *by striking “In this subsection—”*
9 *and all that follows through “(ii) in” and*
10 *inserting “In this subsection, in”;*

11 (ii) *by redesignating subclauses (I),*
12 *(II), and (III) as clauses (i), (ii), and (iii);*
13 *and*

14 (iii) *by moving such redesignated ma-*
15 *terial 2 ems to the left.*

16 (f) *AMENDMENT TO TITLE XIV.—Section 1402(a)(7)*
17 *(42 U.S.C. 1352(a)(7)) is amended by striking “aid to fam-*
18 *ilies with dependent children under the State plan approved*
19 *under section 402 of this Act” and inserting “assistance*
20 *under a State program funded under part A of title IV”.*

21 (g) *AMENDMENT TO TITLE XVI AS IN EFFECT WITH*
22 *RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as*
23 *in effect without regard to the amendment made by section*
24 *301 of the Social Security Amendments of 1972 (42 U.S.C.*
25 *1382 note), is amended by striking “aid under the State*

1 *plan approved” and inserting “assistance under a State*
2 *program funded”.*

3 (h) *AMENDMENT TO TITLE XVI AS IN EFFECT WITH*
4 *RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42*
5 *U.S.C. 1382(c)(5)(A)) is amended to read as follows: “(A)*
6 *a State program funded under part A of title IV,”.*

7 **SEC. 12104. CONFORMING AMENDMENTS TO THE FOOD**
8 **STAMP ACT OF 1977 AND RELATED PROVI-**
9 **SIONS.**

10 (a) *Section 5 of the Food Stamp Act of 1977 (7 U.S.C.*
11 *2014) is amended—*

12 (1) *in the second sentence of subsection (a), by*
13 *striking “plan approved” and all that follows through*
14 *“title IV of the Social Security Act” and inserting*
15 *“program funded under part A of title IV of the So-*
16 *cial Security Act (42 U.S.C. 601 et seq.) that the Sec-*
17 *retary determines complies with standards established*
18 *by the Secretary that ensure that the standards under*
19 *the State program are comparable to or more restric-*
20 *tive than those in effect on June 1, 1995”;*

21 (2) *in subsection (d)—*

22 (A) *in paragraph (5), by striking “assist-*
23 *ance to families with dependent children” and*
24 *inserting “assistance under a State program*
25 *funded”; and*

1 (B) by striking paragraph (13) and redesignig-
2 nating paragraphs (14), (15), and (16) as para-
3 graphs (13), (14), and (15), respectively;

4 (3) in subsection (j), by striking “plan approved
5 under part A of title IV of such Act (42 U.S.C. 601
6 et seq.)” and inserting “program funded under part
7 A of title IV of the Act (42 U.S.C. 601 et seq.) that
8 the Secretary determines complies with standards es-
9 tablished by the Secretary that ensure that the stand-
10 ards under the State program are comparable to or
11 more restrictive than those in effect on June 1, 1995”.

12 (b) Section 6 of such Act (7 U.S.C. 2015) is amend-
13 ed—

14 (1) in subsection (c)(5), by striking “the State
15 plan approved” and inserting “the State program
16 funded”;

17 (2) in subsection (e)—

18 (A) by striking “aid to families with de-
19 pendent children” and inserting “benefits under
20 a State program funded”; and

21 (B) by inserting before the semicolon the fol-
22 lowing: “that the Secretary determines complies
23 with standards established by the Secretary that
24 ensure that the standards under the State pro-

1 *gram are comparable to or more restrictive than*
2 *those in effect on June 1, 1995”;* and

3 (3) *by adding at the end the following new sub-*
4 *section:*

5 “(i) *ELIGIBILITY UNDER OTHER LAW.—Notwith-*
6 *standing any other provision of this Act, a household may*
7 *not receive benefits under this Act as a result of the house-*
8 *hold’s eligibility under a State program funded under part*
9 *A of title IV of the Social Security Act (42 U.S.C. 601 et*
10 *seq.), unless the Secretary determines that any household*
11 *with income above 130 percent of the poverty guidelines is*
12 *not eligible for the program.”.*

13 (c) *Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4))*
14 *is amended by striking “State plans under the Aid to Fami-*
15 *lies with Dependent Children Program under” and insert-*
16 *ing “State programs funded under part A of”.*

17 (d) *Section 17 of such Act (7 U.S.C. 2026) is amend-*
18 *ed—*

19 (1) *in the first sentence of subsection (b)(1)(A),*
20 *by striking “to aid to families with dependent chil-*
21 *dren under part A of title IV of the Social Security*
22 *Act” and inserting “or are receiving assistance under*
23 *a State program funded under part A of title IV of*
24 *the Social Security Act (42 U.S.C. 601 et seq.)”;* and

1 (2) in subsection (b)(3), by adding at the end the
2 following new subparagraph:

3 “(I) The Secretary may not grant a waiver
4 under this paragraph on or after October 1, 1995.
5 Any reference in this paragraph to a provision of title
6 IV of the Social Security Act shall be deemed to be
7 a reference to such provision as in effect on September
8 30, 1995.”;

9 (e) Section 20 of such Act (7 U.S.C. 2029) is amend-
10 ed—

11 (1) in subsection (a)(2)(B) by striking “operat-
12 ing—” and all that follows through “(ii) any other”
13 and inserting “operating any”; and

14 (2) in subsection (b)—

15 (A) in paragraph (1)—

16 (i) by striking “(b)(1) A household”
17 and inserting “(b) A household”; and

18 (ii) in subparagraph (B), by striking
19 “training program” and inserting “activ-
20 ity”;

21 (B) by striking paragraph (2); and

22 (C) by redesignating subparagraphs (A)
23 through (F) as paragraphs (1) through (6), re-
24 spectively.

1 (f) *Section 5(h)(1) of the Agriculture and Consumer*
2 *Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c*
3 *note) is amended by striking “the program for aid to fami-*
4 *lies with dependent children” and inserting “the State pro-*
5 *gram funded”.*

6 (g) *Section 9 of the National School Lunch Act (42*
7 *U.S.C. 1758) is amended—*

8 (1) *in subsection (b)—*

9 (A) *in paragraph (2)(C)(i)(II)—*

10 (i) *by striking “program for aid to*
11 *families with dependent children” and in-*
12 *serting “State program funded”; and*

13 (ii) *by inserting before the period at*
14 *the end the following: “that the Secretary*
15 *determines complies with standards estab-*
16 *lished by the Secretary that ensure that the*
17 *standards under the State program are*
18 *comparable to or more restrictive than those*
19 *in effect on June 1, 1995”; and*

20 (B) *in paragraph (6)—*

21 (i) *in subparagraph (A)(i)—*

22 (I) *by striking “an AFDC assist-*
23 *ance unit (under the aid to families*
24 *with dependent children program au-*

1 *thorized” and inserting “a family*
2 *(under the State program funded”;* and
3 *(II) by striking “, in a State”*
4 *and all that follows through*
5 *“9902(2))” and inserting “that the*
6 *Secretary determines complies with*
7 *standards established by the Secretary*
8 *that ensure that the standards under*
9 *the State program are comparable to*
10 *or more restrictive than those in effect*
11 *on June 1, 1995”;* and
12 *(ii) in subparagraph (B), by striking*
13 *“aid to families with dependent children”*
14 *and inserting “assistance under the State*
15 *program funded under part A of title IV of*
16 *the Social Security Act (42 U.S.C. 601 et*
17 *seq.) that the Secretary determines complies*
18 *with standards established by the Secretary*
19 *that ensure that the standards under the*
20 *State program are comparable to or more*
21 *restrictive than those in effect on June 1,*
22 *1995”;* and
23 *(2) in subsection (d)(2)(C)—*

1 (A) by striking “program for aid to families
2 with dependent children” and inserting “State
3 program funded”; and

4 (B) by inserting before the period at the end
5 the following: “that the Secretary determines
6 complies with standards established by the Sec-
7 retary that ensure that the standards under the
8 State program are comparable to or more re-
9 strictive than those in effect on June 1, 1995”.

10 (h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition
11 Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

12 (1) by striking “program for aid to families with
13 dependent children established” and inserting “State
14 program funded”; and

15 (2) by inserting before the semicolon the follow-
16 ing: “that the Secretary determines complies with
17 standards established by the Secretary that ensure
18 that the standards under the State program are com-
19 parable to or more restrictive than those in effect on
20 June 1, 1995”.

21 **SEC. 12105. CONFORMING AMENDMENTS TO OTHER LAWS.**

22 (a) Subsection (b) of section 508 of the Unemployment
23 Compensation Amendments of 1976 (42 U.S.C. 603a; Pub-
24 lic Law 94–566; 90 Stat. 2689) is amended to read as fol-
25 lows:

1 “(b) *PROVISION FOR REIMBURSEMENT OF EX-*
2 *PENSES.—For purposes of section 455 of the Social Security*
3 *Act, expenses incurred to reimburse State employment of-*
4 *ices for furnishing information requested of such offices—*

5 “(1) *pursuant to the third sentence of section*
6 *3(a) of the Act entitled ‘An Act to provide for the es-*
7 *tablishment of a national employment system and for*
8 *cooperation with the States in the promotion of such*
9 *system, and for other purposes’, approved June 6,*
10 *1933 (29 U.S.C. 49b(a)), or*

11 “(2) *by a State or local agency charged with the*
12 *duty of carrying a State plan for child support ap-*
13 *proved under part D of title IV of the Social Security*
14 *Act,*

15 *shall be considered to constitute expenses incurred in the*
16 *administration of such State plan.”.*

17 (b) *Section 9121 of the Omnibus Budget Reconcili-*
18 *ation Act of 1987 (42 U.S.C. 602 note) is repealed.*

19 (c) *Section 9122 of the Omnibus Budget Reconciliation*
20 *Act of 1987 (42 U.S.C. 602 note) is repealed.*

21 (d) *Section 221 of the Housing and Urban-Rural Re-*
22 *covery Act of 1983 (42 U.S.C. 602 note), relating to treat-*
23 *ment under AFDC of certain rental payments for federally*
24 *assisted housing, is repealed.*

1 (e) *Section 159 of the Tax Equity and Fiscal Respon-*
2 *sibility Act of 1982 (42 U.S.C. 602 note) is repealed.*

3 (f) *Section 202(d) of the Social Security Amendments*
4 *of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.*

5 (g) *Section 903 of the Stewart B. McKinney Homeless*
6 *Assistance Amendments Act of 1988 (42 U.S.C. 11381 note),*
7 *relating to demonstration projects to reduce number of*
8 *AFDC families in welfare hotels, is amended—*

9 (1) *in subsection (a), by striking “aid to families*
10 *with dependent children under a State plan ap-*
11 *proved” and inserting “assistance under a State pro-*
12 *gram funded”; and*

13 (2) *in subsection (c), by striking “aid to families*
14 *with dependent children in the State under a State*
15 *plan approved” and inserting “assistance in the State*
16 *under a State program funded”.*

17 (h) *The Higher Education Act of 1965 (20 U.S.C. 1001*
18 *et seq.) is amended—*

19 (1) *in section 404C(c)(3) (20 U.S.C. 1070a–*
20 *23(c)(3)), by striking “(Aid to Families with Depend-*
21 *ent Children)”;* and

22 (2) *in section 480(b)(2) (20 U.S.C.*
23 *1087vv(b)(2)), by striking “aid to families with de-*
24 *pendent children under a State plan approved” and*
25 *inserting “assistance under a State program funded”.*

1 (i) *The Carl D. Perkins Vocational and Applied Tech-*
2 *nology Education Act (20 U.S.C. 2301 et seq.) is amend-*
3 *ed—*

4 (1) *in section 231(d)(3)(A)(ii) (20 U.S.C.*
5 *2341(d)(3)(A)(ii)), by striking “the program for aid*
6 *to dependent children” and inserting “the State pro-*
7 *gram funded”;*

8 (2) *in section 232(b)(2)(B) (20 U.S.C.*
9 *2341a(b)(2)(B)), by striking “the program for aid to*
10 *families with dependent children” and inserting “the*
11 *State program funded”; and*

12 (3) *in section 521(14)(B)(iii) (20 U.S.C.*
13 *2471(14)(B)(iii)), by striking “the program for aid to*
14 *families with dependent children” and inserting “the*
15 *State program funded”.*

16 (j) *The Elementary and Secondary Education Act of*
17 *1965 (20 U.S.C. 2701 et seq.) is amended—*

18 (1) *in section 1113(a)(5) (20 U.S.C. 6313(a)(5)),*
19 *by striking “Aid to Families with Dependent Chil-*
20 *dren Program” and inserting “State program funded*
21 *under part A of title IV of the Social Security Act”;*

22 (2) *in section 1124(c)(5) (20 U.S.C. 6333(c)(5)),*
23 *by striking “the program of aid to families with de-*
24 *pendent children under a State plan approved under”*

1 and inserting “a State program funded under part A
2 of”; and

3 (3) in section 5203(b)(2) (20 U.S.C.
4 7233(b)(2))—

5 (A) in subparagraph (A)(xi), by striking
6 “Aid to Families with Dependent Children bene-
7 fits” and inserting “assistance under a State
8 program funded under part A of title IV of the
9 Social Security Act”; and

10 (B) in subparagraph (B)(viii), by striking
11 “Aid to Families with Dependent Children” and
12 inserting “assistance under the State program
13 funded under part A of title IV of the Social Se-
14 curity Act”.

15 (k) Chapter VII of title I of Public Law 99–88 (25
16 U.S.C. 13d–1) is amended to read as follows: “Provided fur-
17 ther, That general assistance payments made by the Bureau
18 of Indian Affairs shall be made—

19 “(1) after April 29, 1985, and before October 1,
20 1995, on the basis of Aid to Families with Dependent
21 Children (AFDC) standards of need; and

22 “(2) on and after October 1, 1995, on the basis
23 of standards of need established under the State pro-
24 gram funded under part A of title IV of the Social
25 Security Act,

1 *except that where a State ratably reduces its AFDC or State*
2 *program payments, the Bureau shall reduce general assist-*
3 *ance payments in such State by the same percentage as the*
4 *State has reduced the AFDC or State program payment.”.*

5 *(l) The Internal Revenue Code of 1986 (26 U.S.C. 1*
6 *et seq.) is amended—*

7 *(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by*
8 *striking all that follows “agency as” and inserting*
9 *“being eligible for financial assistance under part A*
10 *of title IV of the Social Security Act and as having*
11 *continually received such financial assistance during*
12 *the 90-day period which immediately precedes the*
13 *date on which such individual is hired by the em-*
14 *ployer.”;*

15 *(2) in section 3304(a)(16) (26 U.S.C.*
16 *3304(a)(16)), by striking “eligibility for aid or serv-*
17 *ices,” and all that follows through “children ap-*
18 *proved” and inserting “eligibility for assistance, or*
19 *the amount of such assistance, under a State program*
20 *funded”;*

21 *(3) in section 6103(l)(7)(D)(i) (26 U.S.C.*
22 *6103(l)(7)(D)(i)), by striking “aid to families with*
23 *dependent children provided under a State plan ap-*
24 *proved” and inserting “a State program funded”;*

1 (4) in section 6334(a)(11)(A) (26 U.S.C.
2 6334(a)(11)(A)), by striking “(relating to aid to fam-
3 ilies with dependent children)”; and

4 (5) in section 7523(b)(3)(C) (26 U.S.C.
5 7523(b)(3)(C)), by striking “aid to families with de-
6 pendent children” and inserting “assistance under a
7 State program funded under part A of title IV of the
8 Social Security Act”.

9 (m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C.
10 49b(b)) is amended by striking “State plan approved under
11 part A of title IV” and inserting “State program funded
12 under part A of title IV”.

13 (n) The Job Training Partnership Act (29 U.S.C. 1501
14 et seq.) is amended—

15 (1) in section 4(29)(A)(i) (29 U.S.C.
16 1503(29)(A)(i)), by striking “(42 U.S.C. 601 et seq.)”;

17 (2) in section 106(b)(6)(C) (29 U.S.C.
18 1516(b)(6)(C)), by striking “State aid to families
19 with dependent children records,” and inserting
20 “records collected under the State program funded
21 under part A of title IV of the Social Security Act,”;

22 (3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

23 (A) by striking “the JOBS program” and
24 inserting “the work activities required under
25 title IV of the Social Security Act”; and

- 1 (B) by striking the second sentence;
- 2 (4) in section 123(c) (29 U.S.C. 1533(c))—
- 3 (A) in paragraph (1)(E), by repealing
- 4 clause (vi); and
- 5 (B) in paragraph (2)(D), by repealing
- 6 clause (v);
- 7 (5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)),
- 8 by striking “, including recipients under the JOBS
- 9 program”;
- 10 (6) in subparagraphs (A) and (B) of section
- 11 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by
- 12 striking “(such as the JOBS program)” each place it
- 13 appears;
- 14 (7) in section 205(a) (29 U.S.C. 1605(a)), by
- 15 striking paragraph (4) and inserting the following:
- 16 “(4) the portions of title IV of the Social Secu-
- 17 rity Act relating to work activities;”;
- 18 (8) in section 253 (29 U.S.C. 1632)—
- 19 (A) in subsection (b)(2), by repealing sub-
- 20 paragraph (C); and
- 21 (B) in paragraphs (1)(B) and (2)(B) of
- 22 subsection (c), by striking “the JOBS program
- 23 or” each place it appears;
- 24 (9) in section 264 (29 U.S.C. 1644)—

1 (A) in subparagraphs (A) and (B) of sub-
2 section (b)(1), by striking “(such as the JOBS
3 program)” each place it appears; and

4 (B) in subparagraphs (A) and (B) of sub-
5 section (d)(3), by striking “and the JOBS pro-
6 gram” each place it appears;

7 (10) in section 265(b) (29 U.S.C. 1645(b)), by
8 striking paragraph (6) and inserting the following:

9 “(6) the portion of title IV of the Social Security
10 Act relating to work activities;”;

11 (11) in the second sentence of section 429(e) (29
12 U.S.C. 1699(e)), by striking “and shall be in an
13 amount that does not exceed the maximum amount
14 that may be provided by the State pursuant to section
15 402(g)(1)(C) of the Social Security Act (42 U.S.C.
16 602(g)(1)(C))”;

17 (12) in section 454(c) (29 U.S.C. 1734(c)), by
18 striking “JOBS and”;

19 (13) in section 455(b) (29 U.S.C. 1735(b)), by
20 striking “the JOBS program,”;

21 (14) in section 501(1) (29 U.S.C. 1791(1)), by
22 striking “aid to families with dependent children
23 under part A of title IV of the Social Security Act (42
24 U.S.C. 601 et seq.)” and inserting “assistance under

1 *the State program funded under part A of title IV of*
2 *the Social Security Act”;*

3 (15) *in section 506(1)(A) (29 U.S.C.*
4 *1791e(1)(A)), by striking “aid to families with de-*
5 *pendent children” and inserting “assistance under the*
6 *State program funded”;*

7 (16) *in section 508(a)(2)(A) (29 U.S.C.*
8 *1791g(a)(2)(A)), by striking “aid to families with de-*
9 *pendent children” and inserting “assistance under the*
10 *State program funded”; and*

11 (17) *in section 701(b)(2)(A) (29 U.S.C.*
12 *1792(b)(2)(A))—*

13 (A) *in clause (v), by striking the semicolon*
14 *and inserting “; and”; and*

15 (B) *by striking clause (vi).*

16 (o) *Section 3803(c)(2)(C)(iv) of title 31, United States*
17 *Code, is amended to read as follows:*

18 “(iv) *assistance under a State program*
19 *funded under part A of title IV of the Social*
20 *Security Act”.*

21 (p) *Section 2605(b)(2)(A)(i) of the Low-Income Home*
22 *Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i))*
23 *is amended to read as follows:*

1 “(i) assistance under the State pro-
2 gram funded under part A of title IV of the
3 Social Security Act;”.

4 (q) Section 303(f)(2) of the Family Support Act of
5 1988 (42 U.S.C. 602 note) is amended—

6 (1) by striking “(A)”; and

7 (2) by striking subparagraphs (B) and (C).

8 (r) The Balanced Budget and Emergency Deficit Con-
9 trol Act of 1985 (2 U.S.C. 900 et seq.) is amended—

10 (1) in the first section 255(h) (2 U.S.C. 905(h)),
11 by striking “Aid to families with dependent children
12 (75–0412–0–1–609);” and inserting “Block grants to
13 States for temporary assistance for needy families;”;
14 and

15 (2) in section 256 (2 U.S.C. 906)—

16 (A) by striking subsection (k); and

17 (B) by redesignating subsection (l) as sub-
18 section (k).

19 (s) The Immigration and Nationality Act (8 U.S.C.
20 1101 et seq.) is amended—

21 (1) in section 210(f) (8 U.S.C. 1160(f)), by strik-
22 ing “aid under a State plan approved under” each
23 place it appears and inserting “assistance under a
24 State program funded under”;

25 (2) in section 245A(h) (8 U.S.C. 1255a(h))—

1 (A) in paragraph (1)(A)(i), by striking
2 “program of aid to families with dependent chil-
3 dren” and inserting “State program of assist-
4 ance”; and

5 (B) in paragraph (2)(B), by striking “aid
6 to families with dependent children” and insert-
7 ing “assistance under a State program funded
8 under part A of title IV of the Social Security
9 Act”; and

10 (3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by
11 striking “State plan approved” and inserting “State
12 program funded”.

13 (t) Section 640(a)(4)(B)(i) of the Head Start Act (42
14 U.S.C. 9835(a)(4)(B)(i)) is amended by striking “program
15 of aid to families with dependent children under a State
16 plan approved” and inserting “State program of assistance
17 funded”.

18 (u) Section 9 of the Act of April 19, 1950 (64 Stat.
19 47, chapter 92; 25 U.S.C. 639) is repealed.

20 (v) Subparagraph (E) of section 213(d)(6) of the
21 School-To-Work Opportunities Act of 1994 (20 U.S.C.
22 6143(d)(6)) is amended to read as follows:

23 “(E) part A of title IV of the Social Secu-
24 rity Act (42 U.S.C. 601 et seq.) relating to work
25 activities;”.

1 **SEC. 12106. EFFECTIVE DATE; TRANSITION RULE.**

2 (a) *IN GENERAL.*—*Except as otherwise provided in*
3 *this subtitle, this subtitle and the amendments made by this*
4 *subtitle shall take effect on October 1, 1995.*

5 (b) *PENALTIES.*—

6 (1) *IN GENERAL.*—*Paragraphs (2) through (7)*
7 *and paragraph (9) of section 408(a) of the Social Se-*
8 *curity Act (as added by section 12101 of this Act)*
9 *shall apply with respect to fiscal years beginning on*
10 *or after October 1, 1996.*

11 (2) *MISUSE OF FUNDS.*—*Paragraphs (1) and (8)*
12 *of section 408(a) of the Social Security Act (as added*
13 *by section 12101 of this Act, shall apply with respect*
14 *to fiscal years beginning on or after October 1, 1995.*

15 (c) *TRANSITION RULES.*—

16 (1) *STATE OPTION TO CONTINUE AFDC PRO-*
17 *GRAM.*—

18 (A) *9-MONTH EXTENSION.*—*A State may*
19 *elect to continue the State AFDC program until*
20 *June 30, 1996.*

21 (B) *NO INDIVIDUAL OR FAMILY ENTITLE-*
22 *MENT UNDER CONTINUED STATE AFDC PRO-*
23 *GRAMS.*—*Notwithstanding any other provision of*
24 *law or any rule of law, no individual or family*
25 *is entitled to aid under any State AFDC pro-*

1 *gram on or after the date of the enactment of*
2 *this Act.*

3 (C) *LIMITATIONS ON FEDERAL OBLIGA-*
4 *TIONS.—*

5 (i) *UNDER AFDC PROGRAM.—If a State*
6 *elects to continue the State AFDC program*
7 *pursuant to subparagraph (A), the total ob-*
8 *ligations of the Federal Government to the*
9 *State under part A of title IV of the Social*
10 *Security Act (as in effect on September 30,*
11 *1995) after the date of the enactment of this*
12 *Act shall not exceed an amount equal to—*

13 (I) *the State family assistance*
14 *grant (as defined in section*
15 *402(a)(1)(B) of the Social Security Act*
16 *(as in effect pursuant to the amend-*
17 *ment made by section 12101 of this*
18 *Act)); minus*

19 (II) *any obligations of the Federal*
20 *Government to the State under such*
21 *part (as in effect on September 30,*
22 *1995) with respect to expenditures by*
23 *the State during the period that begins*
24 *on October 1, 1995, and ends on the*

1 *day before the date of the enactment of*
2 *this Act.*

3 (ii) *UNDER TEMPORARY FAMILY AS-*
4 *SISTANCE PROGRAM.—Notwithstanding sec-*
5 *tion 402(a)(1) of the Social Security Act (as*
6 *in effect pursuant to the amendment made*
7 *by section 12101 of this Act), the total obli-*
8 *gations of the Federal Government to the*
9 *State under such section 402(a)(1) for fiscal*
10 *year 1996 after the termination of the State*
11 *AFDC program shall not exceed an amount*
12 *equal to—*

13 *(I) the amount described in clause*
14 *(i)(I) of this subparagraph; minus*

15 *(II) any obligations of the Federal*
16 *Government to the State under part A*
17 *of title IV of the Social Security Act*
18 *(as in effect on September 30, 1995)*
19 *with respect to expenditures by the*
20 *State on or after October 1, 1995.*

21 (D) *SUBMISSION OF STATE PLAN FOR FIS-*
22 *CAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT*
23 *LIMITATIONS AND FORMULA.—The submission of*
24 *a plan by a State under section 401(a) of the So-*
25 *cial Security Act (as in effect pursuant to the*

1 *amendment made by section 12101 of this Act)*
2 *for fiscal year 1996 is deemed to constitute the*
3 *State's acceptance of the grant reductions under*
4 *subparagraph (C)(ii) of this paragraph (includ-*
5 *ing the formula for computing the amount of the*
6 *reduction).*

7 *(E) STATE AFDC PROGRAM DEFINED.—As*
8 *used in this paragraph, the term “State AFDC*
9 *program” means the State program under parts*
10 *A and F of title IV of the Social Security Act*
11 *(as in effect on September 30, 1995).*

12 *(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The*
13 *amendments made by this subtitle shall not apply*
14 *with respect to—*

15 *(A) powers, duties, functions, rights, claims,*
16 *penalties, or obligations applicable to aid, assist-*
17 *ance, or services provided before the effective date*
18 *of this subtitle under the provisions amended;*
19 *and*

20 *(B) administrative actions and proceedings*
21 *commenced before such date, or authorized before*
22 *such date to be commenced, under such provi-*
23 *sions.*

24 *(3) CLOSING OUT ACCOUNT FOR THOSE PRO-*
25 *GRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY*

1 *THIS SUBTITLE.—In closing out accounts, Federal*
2 *and State officials may use scientifically acceptable*
3 *statistical sampling techniques. Claims made under*
4 *programs which are repealed or substantially amend-*
5 *ed in this subtitle and which involve State expendi-*
6 *tures in cases where assistance or services were pro-*
7 *vided during a prior fiscal year, shall be treated as*
8 *expenditures during fiscal year 1995 for purposes of*
9 *reimbursement even if payment was made by a State*
10 *on or after October 1, 1995. States shall complete the*
11 *filing of all claims no later than September 30, 1997.*
12 *Federal department heads shall—*

13 *(A) use the single audit procedure to review*
14 *and resolve any claims in connection with the*
15 *close out of programs, and*

16 *(B) reimburse States for any payments*
17 *made for assistance or services provided during*
18 *a prior fiscal year from funds for fiscal year*
19 *1995, rather than the funds authorized by this*
20 *subtitle.*

21 *(4) CONTINUANCE IN OFFICE OF ASSISTANT SEC-*
22 *RETARY FOR FAMILY SUPPORT.—The individual who,*
23 *on the day before the effective date of this subtitle, is*
24 *serving as Assistant Secretary for Family Support*
25 *within the Department of Health and Human Serv-*

1 *ices shall, until a successor is appointed to such posi-*
2 *tion—*

3 *(A) continue to serve in such position; and*

4 *(B) except as otherwise provided by law—*

5 *(i) continue to perform the functions of*
6 *the Assistant Secretary for Family Support*
7 *under section 417 of the Social Security Act*
8 *(as in effect before such effective date); and*

9 *(ii) have the powers and duties of the*
10 *Assistant Secretary for Family Support*
11 *under section 415 of the Social Security Act*
12 *(as in effect pursuant to the amendment*
13 *made by section 12101 of this Act).*

14 *(d) SUNSET.—The amendment made by section 12101*
15 *shall be effective only during the 6-year period beginning*
16 *on October 1, 1995.*

17 ***Subtitle B—Supplemental Security***
18 ***Income***

19 ***SEC. 12200. REFERENCE TO SOCIAL SECURITY ACT.***

20 *Except as otherwise specifically provided, where ever*
21 *in this subtitle an amendment is expressed in terms of an*
22 *amendment to or repeal of a section or other provision, the*
23 *reference shall be considered to be made to that section or*
24 *other provision of the Social Security Act.*

1 **CHAPTER 1—ELIGIBILITY RESTRICTIONS**

2 **SEC. 12201. DENIAL OF SUPPLEMENTAL SECURITY INCOME**

3 **BENEFITS BY REASON OF DISABILITY TO**

4 **DRUG ADDICTS AND ALCOHOLICS.**

5 (a) *IN GENERAL.*—Section 1614(a)(3) (42 U.S.C.
6 1382c(a)(3)) is amended by adding at the end the following:

7 “(I) Notwithstanding subparagraph (A), an individ-
8 ual shall not be considered to be disabled for purposes of
9 this title if alcoholism or drug addiction would (but for this
10 subparagraph) be a contributing factor material to the
11 Commissioner’s determination that the individual is dis-
12 abled.”.

13 (b) *REPRESENTATIVE PAYEE REQUIREMENTS.*—

14 (1) Section 1631(a)(2)(A)(ii)(II) (42 U.S.C.
15 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

16 “(II) In the case of an individual eligible for benefits
17 under this title by reason of disability, the payment of such
18 benefits shall be made to a representative payee if the Com-
19 missioner of Social Security determines that such payment
20 would serve the interest of the individual because the indi-
21 vidual also has an alcoholism or drug addiction condition
22 that prevents the individual from managing such benefits.”.

23 (2) Section 1631(a)(2)(B)(vii) (42 U.S.C.
24 1383(a)(2)(B)(vii)) is amended by striking “eligible
25 for benefits” and all that follows through “is disabled”

1 and inserting “described in subparagraph
2 (A)(ii)(II)”.

3 (3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C.
4 1383(a)(2)(B)(ix)(II)) is amended by striking all that
5 follows “15 years, or” and inserting “described in
6 subparagraph (A)(ii)(II)”.

7 (4) Section 1631(a)(2)(D)(i)(II) (42 U.S.C.
8 1383(a)(2)(D)(i)(II)) is amended by striking “eligible
9 for benefits” and all that follows through “is disabled”
10 and inserting “described in subparagraph
11 (A)(ii)(II)”.

12 (c) *TREATMENT REFERRALS FOR INDIVIDUALS WITH*
13 *AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title*
14 *XVI (42 U.S.C. 1381 et seq.) is amended by adding at the*
15 *end the following new section:*

16 “*TREATMENT REFERRALS FOR INDIVIDUALS WITH AN*
17 *ALCOHOLISM OR DRUG ADDICTION CONDITION*

18 “*SEC. 1636. In the case of any eligible individual*
19 *whose benefits under this title by reason of disability are*
20 *paid to a representative payee pursuant to section*
21 *1631(a)(2)(A)(ii)(II), the Commissioner of Social Security*
22 *shall refer such individual to the appropriate State agency*
23 *administering the State plan for substance abuse treatment*
24 *services approved under subpart II of part B of title XIX*
25 *of the Public Health Service Act (42 U.S.C. 300x–21 et*
26 *seq.).”.*

1 (d) *CONFORMING AMENDMENTS.*—

2 (1) *Section 1611(e) (42 U.S.C. 1382(e)) is*
3 *amended by striking paragraph (3).*

4 (2) *Section 1634 (42 U.S.C. 1383c) is amended*
5 *by striking subsection (e).*

6 (3) *Section 201(c)(1) of the Social Security Inde-*
7 *pendence and Program Improvements Act of 1994 (42*
8 *U.S.C. 425 note) is amended—*

9 (A) *by striking “to—” and all that follows*
10 *through “in cases in which” and inserting “to*
11 *individuals who are entitled to disability insur-*
12 *ance benefits or child’s, widow’s, or widower’s*
13 *insurance benefits based on disability under title*
14 *II of the Social Security Act, in cases in which”;*

15 (B) *by striking “either subparagraph (A) or*
16 *subparagraph (B)” and inserting “the preceding*
17 *sentence”;* and

18 (C) *by striking “subparagraph (A) or (B)”*
19 *and inserting “the preceding sentence”.*

20 (e) *SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUB-*
21 *STANCE ABUSE TREATMENT PROGRAMS.*—

22 (1) *IN GENERAL.*—*Out of any money in the*
23 *Treasury not otherwise appropriated, there are hereby*
24 *appropriated to supplement State and Tribal pro-*
25 *grams funded under section 1933 of the Public Health*

1 *Service Act (42 U.S.C. 300x-33), \$50,000,000 for*
2 *each of the fiscal years 1997 and 1998.*

3 (2) *ADDITIONAL FUNDS.*—*Amounts appropriated*
4 *under paragraph (1) shall be in addition to any*
5 *funds otherwise appropriated for allotments under*
6 *section 1933 of the Public Health Service Act (42*
7 *U.S.C. 300x-33) and shall be allocated pursuant to*
8 *such section 1933.*

9 (3) *USE OF FUNDS.*—*A State or Tribal govern-*
10 *ment receiving an allotment under this subsection*
11 *shall consider as priorities, for purposes of expending*
12 *funds allotted under this subsection, activities relating*
13 *to the treatment of the abuse of alcohol and other*
14 *drugs.*

15 (f) *EFFECTIVE DATES.*—

16 (1) *IN GENERAL.*—*Except as provided in para-*
17 *graphs (2) and (3), the amendments made by this sec-*
18 *tion shall apply to applicants for benefits for months*
19 *beginning on or after the date of the enactment of this*
20 *Act, without regard to whether regulations have been*
21 *issued to implement such amendments.*

22 (2) *APPLICATION TO CURRENT RECIPIENTS.*—

23 (A) *APPLICATION AND NOTICE.*—*Notwith-*
24 *standing any other provision of law, in the case*
25 *of an individual who is receiving supplemental*

1 *security income benefits under title XVI of the*
2 *Social Security Act as of the date of the enact-*
3 *ment of this Act and whose eligibility for such*
4 *benefits would terminate by reason of the amend-*
5 *ments made by this section, such amendments*
6 *shall apply with respect to the benefits of such*
7 *individual, including such individual's treat-*
8 *ment (if any) provided pursuant to such title as*
9 *in effect on the day before the date of such enact-*
10 *ment, for months beginning on or after January*
11 *1, 1997, and the Commissioner of Social Secu-*
12 *rity shall so notify the individual not later than*
13 *90 days after the date of the enactment of this*
14 *Act.*

15 *(B) REAPPLICATION.—*

16 *(i) IN GENERAL.—Not later than 120*
17 *days after the date of the enactment of this*
18 *Act, each individual notified pursuant to*
19 *subparagraph (A) who desires to reapply*
20 *for benefits under title XVI of the Social Se-*
21 *curity Act, as amended by this title, may*
22 *reapply to the Commissioner of Social Secu-*
23 *rity.*

24 *(ii) DETERMINATION OF ELIGI-*
25 *BILITY.—Not later than January 1, 1997,*

1 *the Commissioner of Social Security shall*
2 *complete the eligibility redetermination of*
3 *each individual who reapplies for benefits*
4 *under clause (i) pursuant to the procedures*
5 *of title XVI of such Act.*

6 (3) *ADDITIONAL APPLICATION OF PAYEE REP-*
7 *RESENTATIVE AND TREATMENT REFERRAL REQUIRE-*
8 *MENTS.—The amendments made by subsections (b)*
9 *and (c) shall also apply—*

10 (A) *in the case of any individual who is re-*
11 *ceiving supplemental security income benefits*
12 *under title XVI of the Social Security Act as of*
13 *the date of the enactment of this Act, on and*
14 *after the date of such individual's first continu-*
15 *ing disability review occurring after such date of*
16 *enactment, and*

17 (B) *in the case of any individual who re-*
18 *ceives supplemental security income benefits*
19 *under title XVI of the Social Security Act and*
20 *has attained age 65, in such manner as deter-*
21 *mined appropriate by the Commissioner of So-*
22 *cial Security.*

1 *by inserting after paragraph (2) the following new para-*
2 *graph:*

3 “(3) *A person shall not be considered an eligible indi-*
4 *vidual or eligible spouse for purposes of this title with re-*
5 *spect to any month if during such month the person is—*

6 “(A) *fleeing to avoid prosecution, or custody or*
7 *confinement after conviction, under the laws of the*
8 *place from which the person flees, for a crime, or an*
9 *attempt to commit a crime, which is a felony under*
10 *the laws of the place from which the person flees, or*
11 *which, in the case of the State of New Jersey, is a*
12 *high misdemeanor under the laws of such State; or*

13 “(B) *violating a condition of probation or parole*
14 *imposed under Federal or State law.”.*

15 (b) *EXCHANGE OF INFORMATION WITH LAW ENFORCE-*
16 *MENT AGENCIES.—Section 1611(e) (42 U.S.C. 1382(e)), as*
17 *amended by section 12201(d)(1) and subsection (a), is*
18 *amended by inserting after paragraph (3) the following new*
19 *paragraph:*

20 “(4) *Notwithstanding any other provision of law, the*
21 *Commissioner shall furnish any Federal, State, or local law*
22 *enforcement officer, upon the request of the officer, with the*
23 *current address, Social Security number, and photograph*
24 *(if applicable) of any recipient of benefits under this title,*

1 *if the officer furnishes the Commissioner with the name of*
2 *the recipient and notifies the Commissioner that—*

3 “(A) the recipient—

4 “(i) is described in subparagraph (A) or
5 (B) of paragraph (3); or

6 “(ii) has information that is necessary for
7 the officer to conduct the officer’s official duties;
8 and

9 “(B) the location or apprehension of the recipi-
10 *ent is within the officer’s official duties.”.*

11 (c) *EFFECTIVE DATE.*—*The amendments made by this*
12 *section shall take effect on the date of the enactment of this*
13 *Act.*

14 **CHAPTER 2—BENEFITS FOR DISABLED**
15 **CHILDREN**

16 **SEC. 12211. DEFINITION AND ELIGIBILITY RULES.**

17 (a) *DEFINITION OF CHILDHOOD DISABILITY.*—*Section*
18 *1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section*
19 *7251(a), is amended—*

20 (1) *in subparagraph (A), by striking “An indi-*
21 *vidual” and inserting “Except as provided in sub-*
22 *paragraph (C), an individual”;*

23 (2) *in subparagraph (A), by striking “(or, in the*
24 *case of an individual under the age of 18, if he suffers*

1 *from any medically determinable physical or mental*
2 *impairment of comparable severity)”;*

3 *(3) by redesignating subparagraphs (C) through*
4 *(I) as subparagraphs (D) through (J), respectively;*

5 *(4) by inserting after subparagraph (B) the fol-*
6 *lowing new subparagraph:*

7 *“(C) An individual under the age of 18 shall be consid-*
8 *ered disabled for the purposes of this title if that individual*
9 *has a medically determinable physical or mental impair-*
10 *ment, which results in marked and severe functional limita-*
11 *tions, and which can be expected to result in death or which*
12 *has lasted or can be expected to last for a continuous period*
13 *of not less than 12 months. Notwithstanding the preceding*
14 *sentence, no individual under the age of 18 who engages*
15 *in substantial gainful activity (determined in accordance*
16 *with regulations prescribed pursuant to subparagraph (E))*
17 *may be considered to be disabled.”; and*

18 *(5) in subparagraph (F), as redesignated by*
19 *paragraph (3), by striking “(D)” and inserting*
20 *“(E)”.*

21 ***(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—***

22 ***(1) MODIFICATION TO MEDICAL CRITERIA FOR***
23 ***EVALUATION OF MENTAL AND EMOTIONAL DIS-***
24 ***ORDERS.—The Commissioner of Social Security shall***
25 ***modify sections 112.00C.2. and 112.02B.2.c.(2) of ap-***

1 *pendix 1 to subpart P of part 404 of title 20, Code*
2 *of Federal Regulations, to eliminate references to*
3 *maladaptive behavior in the domain of personal/*
4 *behaviorial function.*

5 (2) *DISCONTINUANCE OF INDIVIDUALIZED FUNC-*
6 *TIONAL ASSESSMENT.—The Commissioner of Social*
7 *Security shall discontinue the individualized func-*
8 *tional assessment for children set forth in sections*
9 *416.924d and 416.924e of title 20, Code of Federal*
10 *Regulations.*

11 (c) *MEDICAL IMPROVEMENT REVIEW STANDARD AS IT*
12 *APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Sec-*
13 *tion 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—*

14 (1) *by redesignating subclauses (I) and (II) of*
15 *clauses (i) and (ii) of subparagraph (B) as subclauses*
16 *(aa) and (bb), respectively;*

17 (2) *by redesignating clauses (i) and (ii) of sub-*
18 *paragraphs (A) and (B) as subclauses (I) and (II),*
19 *respectively;*

20 (3) *by redesignating subparagraphs (A) through*
21 *(C) as clauses (i) through (iii), respectively, and by*
22 *moving their left hand margin 2 ems to the right;*

23 (4) *by inserting before clause (i) (as redesignated*
24 *by paragraph (3)) the following:*

1 “(A) in the case of an individual who is age
2 18 or older—”;

3 (5) at the end of subparagraph (A)(iii) (as redesi-
4 gnated by paragraphs (3) and (4)), by striking the
5 period and inserting “; or”;

6 (6) by inserting after and below subparagraph
7 (A)(iii) (as so redesignated) the following:

8 “(B) in the case of an individual who is
9 under the age of 18—

10 “(i) substantial evidence which dem-
11 onstrates that there has been medical im-
12 provement in the individual’s impairment
13 or combination of impairments, and that
14 such impairment or combination of impair-
15 ments no longer results in marked and se-
16 vere functional limitations; or

17 “(ii) substantial evidence which dem-
18 onstrates that, as determined on the basis of
19 new or improved diagnostic techniques or
20 evaluations, the individual’s impairment or
21 combination of impairments, is not as dis-
22 abling as it was considered to be at the time
23 of the most recent prior decision that he or
24 she was under a disability or continued to
25 be under a disability, and such impairment

1 *or combination of impairments does not re-*
2 *sult in marked or severe functional limita-*
3 *tions; or”;*

4 *(7) by redesignating subparagraph (D) as sub-*
5 *paragraph (C) and by inserting in such subpara-*
6 *graph “in the case of any individual,” before “sub-*
7 *stantial evidence”;* and

8 *(8) in the first sentence following subparagraph*
9 *(C) (as redesignated by paragraph (7)), by—*

10 *(A) inserting “(i)” before “to restore”; and*

11 *(B) inserting “, or (ii) in the case of an in-*
12 *dividual under the age of 18, to eliminate or im-*
13 *prove the individual’s impairment or combina-*
14 *tion of impairments so that it no longer results*
15 *in marked and severe functional limitations”*
16 *immediately before the period.*

17 *(d) AMOUNT OF BENEFITS.—Section 1611(b) (42*
18 *U.S.C. 1382(b)) is amended by adding at the end the follow-*
19 *ing new paragraph:*

20 *“(3)(i) Except with respect to individuals described in*
21 *clause (ii), the benefit under this title for an individual de-*
22 *scribed in section 1614(a)(3)(C) shall be payable at a rate*
23 *equal to 75 percent of the rate otherwise determined under*
24 *this subsection.*

1 “(ii) *An individual is described in this clause if such*
2 *individual is described in section 1614(a)(3)(C), and—*

3 “(I) *in the case of such an individual under the*
4 *age of 6, such individual has a medical impairment*
5 *that severely limits the individual’s ability to func-*
6 *tion in a manner appropriate to individuals of the*
7 *same age and who without special personal assistance*
8 *would require specialized care outside the home; or*

9 “(II) *in the case of such an individual who has*
10 *attained the age of 6, such individual requires per-*
11 *sonal care assistance with—*

12 “(aa) *at least 2 activities of daily living;*

13 “(bb) *continual 24-hour supervision or*
14 *monitoring to avoid causing injury or harm to*
15 *self or others; or*

16 “(cc) *the administration of medical treat-*
17 *ment; and*

18 *who without such assistance would require full-time*
19 *or part-time specialized care outside the home.*

20 “(iii)(I) *For purposes of clause (ii), the term ‘special-*
21 *ized care’ means medical care beyond routine administra-*
22 *tion of medication.*

23 “(II) *For purposes of clause (ii)(II)—*

1 “(aa) the term ‘personal care assistance’ means
2 at least hands-on and stand-by assistance, super-
3 vision, or cueing; and

4 “(bb) the term ‘activities of daily living’ means
5 eating, toileting, dressing, bathing, and mobility.”.

6 (e) *EFFECTIVE DATES, ETC.*—

7 (1) *EFFECTIVE DATES.*—

8 (A) *IN GENERAL.*—*The provisions of, and*
9 *amendments made by, subsections (a), (b), and*
10 *(c) shall apply to applicants for benefits under*
11 *title XVI of the Social Security Act for months*
12 *beginning on or after the date of the enactment*
13 *of this Act, without regard to whether regulations*
14 *have been issued to implement such provisions*
15 *and amendments.*

16 (B) *ELIGIBILITY RULES.*—*The amendments*
17 *made by subsection (d) shall apply to—*

18 (i) *applicants for benefits under title*
19 *XVI of the Social Security Act for months*
20 *beginning on or after January 1, 1997; and*

21 (ii) *with respect to continuing disabil-*
22 *ity reviews of eligibility for benefits under*
23 *such title occurring on or after such date.*

24 (2) *APPLICATION TO CURRENT RECIPIENTS.*—

1 (A) *ELIGIBILITY DETERMINATIONS.*—Not
2 later than 1 year after the date of the enactment
3 of this Act, the Commissioner of Social Security
4 shall redetermine the eligibility of any individ-
5 ual under age 18 who is receiving supplemental
6 security income benefits based on a disability
7 under title XVI of the Social Security Act as of
8 the date of the enactment of this Act and whose
9 eligibility for such benefits may terminate by
10 reason of the provisions of, and amendments
11 made by, subsections (a), (b), and (c). With re-
12 spect to any redetermination under this subpara-
13 graph—

14 (i) section 1614(a)(4) of the Social Se-
15 curity Act (42 U.S.C. 1382c(a)(4)) shall not
16 apply;

17 (ii) the Commissioner of Social Secu-
18 rity shall apply the eligibility criteria for
19 new applicants for benefits under title XVI
20 of such Act;

21 (iii) the Commissioner shall give such
22 redetermination priority over all continuing
23 eligibility reviews and other reviews under
24 such title; and

1 (iv) such redetermination shall be
2 counted as a review or redetermination oth-
3 erwise required to be made under section
4 208 of the Social Security Independence
5 and Program Improvements Act of 1994 or
6 any other provision of title XVI of the So-
7 cial Security Act.

8 (B) GRANDFATHER PROVISION.—The provi-
9 sions of, and amendments made by, subsections
10 (a), (b), and (c), and the redetermination under
11 subparagraph (A), shall only apply with respect
12 to the benefits of an individual described in sub-
13 paragraph (A) for months beginning on or after
14 January 1, 1997.

15 (C) NOTICE.—Not later than 90 days after
16 the date of the enactment of this Act, the Com-
17 missioner of Social Security shall notify an in-
18 dividual described in subparagraph (A) of the
19 provisions of this paragraph.

20 (3) REGULATIONS.—The Commissioner of Social
21 Security shall submit for review to the committees of
22 jurisdiction in the Congress any final regulation per-
23 taining to the eligibility of individuals under age 18
24 for benefits under title XVI of the Social Security Act
25 at least 45 days before the effective date of such regu-

1 *lation. The submission under this paragraph shall in-*
2 *clude supporting documentation providing a cost*
3 *analysis, workload impact, and projections as to how*
4 *the regulation will effect the future number of recipi-*
5 *ents under such title.*

6 (4) *APPROPRIATIONS.—*

7 (A) *IN GENERAL.—Out of any money in the*
8 *Treasury not otherwise appropriated, there are*
9 *authorized to be appropriated and are hereby*
10 *appropriated, to remain available without fiscal*
11 *year limitation, \$200,000,000 for fiscal year*
12 *1996, \$75,000,000 for fiscal year 1997, and*
13 *\$25,000,000 for fiscal year 1998, for the Com-*
14 *missioner of Social Security to utilize only for*
15 *continuing disability reviews and*
16 *redeterminations under title XVI of the Social*
17 *Security Act, with reviews and redeterminations*
18 *for individuals affected by the provisions of sub-*
19 *section (b) given highest priority.*

20 (B) *ADDITIONAL FUNDS.—Amounts appro-*
21 *priated under subparagraph (A) shall be in ad-*
22 *dition to any funds otherwise appropriated for*
23 *continuing disability reviews and*
24 *redeterminations under title XVI of the Social*
25 *Security Act.*

1 **SEC. 12212. ELIGIBILITY REDETERMINATIONS AND CON-**
2 **TINUING DISABILITY REVIEWS.**

3 (a) *CONTINUING DISABILITY REVIEWS RELATING TO*
4 *CERTAIN CHILDREN.*—Section 1614(a)(3)(H) (42 U.S.C.
5 1382c(a)(3)(H)), as redesignated by section 12211(a)(3), is
6 amended—

7 (1) by inserting “(i)” after “(H)”; and

8 (2) by adding at the end the following new
9 clause:

10 “(i)(I) Not less frequently than once every 3 years,
11 the Commissioner shall review in accordance with para-
12 graph (4) the continued eligibility for benefits under this
13 title of each individual who has not attained 18 years of
14 age and is eligible for such benefits by reason of an impair-
15 ment (or combination of impairments) which may improve
16 (or, at the option of the Commissioner, which is unlikely
17 to improve).

18 “(II) A representative payee of a recipient whose case
19 is reviewed under this clause shall present, at the time of
20 review, evidence demonstrating that the recipient is, and
21 has been, receiving treatment, to the extent considered medi-
22 cally necessary and available, of the condition which was
23 the basis for providing benefits under this title.

24 “(III) If the representative payee refuses to comply
25 without good cause with the requirements of subclause (II),
26 the Commissioner of Social Security shall, if the Commis-

1 sioner determines it is in the best interest of the individual,
2 promptly terminate payment of benefits to the representa-
3 tive payee, and provide for payment of benefits to an alter-
4 native representative payee of the individual or, if the inter-
5 est of the individual under this title would be served thereby,
6 to the individual.

7 “(IV) Subclause (II) shall not apply to the representa-
8 tive payee of any individual with respect to whom the Com-
9 missioner determines such application would be inappro-
10 priate or unnecessary. In making such determination, the
11 Commissioner shall take into consideration the nature of
12 the individual’s impairment (or combination of impair-
13 ments). Section 1631(c) shall not apply to a finding by the
14 Commissioner that the requirements of subclause (II) should
15 not apply to an individual’s representative payee.”

16 (b) *DISABILITY ELIGIBILITY REDETERMINATIONS RE-*
17 *QUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF*
18 *AGE.*—

19 (1) *IN GENERAL.*—Section 1614(a)(3)(H) (42
20 U.S.C. 1382c(a)(3)(H)), as amended by subsection
21 (a), is amended by adding at the end the following
22 new clause:

23 “(iii) If an individual is eligible for benefits under this
24 title by reason of disability for the month preceding the

1 month in which the individual attains the age of 18 years,
2 the Commissioner shall redetermine such eligibility—

3 “(I) during the 1-year period beginning on the
4 individual’s 18th birthday; and

5 “(II) by applying the criteria used in determin-
6 ing the initial eligibility for applicants who are age
7 18 or older.

8 With respect to a redetermination under this clause, para-
9 graph (4) shall not apply and such redetermination shall
10 be considered a substitute for a review or redetermination
11 otherwise required under any other provision of this sub-
12 paragraph during that 1-year period.”.

13 (2) *CONFORMING REPEAL.*—Section 207 of the
14 Social Security Independence and Program Improve-
15 ments Act of 1994 (42 U.S.C. 1382 note; 108 Stat.
16 1516) is hereby repealed.

17 (c) *CONTINUING DISABILITY REVIEW REQUIRED FOR*
18 *LOW BIRTH WEIGHT BABIES.*—Section 1614(a)(3)(H) (42
19 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and
20 (b), is amended by adding at the end the following new
21 clause:

22 “(iv)(I) Not later than 12 months after the birth of
23 an individual, the Commissioner shall review in accordance
24 with paragraph (4) the continuing eligibility for benefits
25 under this title by reason of disability of such individual

1 *whose low birth weight is a contributing factor material*
2 *to the Commissioner's determination that the individual is*
3 *disabled.*

4 “(II) *A review under subclause (I) shall be considered*
5 *a substitute for a review otherwise required under any other*
6 *provision of this subparagraph during that 12-month pe-*
7 *riod.*

8 “(III) *A representative payee of a recipient whose case*
9 *is reviewed under this clause shall present, at the time of*
10 *review, evidence demonstrating that the recipient is, and*
11 *has been, receiving treatment, to the extent considered medi-*
12 *cally necessary and available, of the condition which was*
13 *the basis for providing benefits under this title.*

14 “(IV) *If the representative payee refuses to comply*
15 *without good cause with the requirements of subclause (III),*
16 *the Commissioner of Social Security shall, if the Commis-*
17 *sioner determines it is in the best interest of the individual,*
18 *promptly terminate payment of benefits to the representa-*
19 *tive payee, and provide for payment of benefits to an alter-*
20 *native representative payee of the individual or, if the inter-*
21 *est of the individual under this title would be served thereby,*
22 *to the individual.*

23 “(V) *Subclause (III) shall not apply to the representa-*
24 *tive payee of any individual with respect to whom the Com-*
25 *missioner determines such application would be inappro-*

1 *priate or unnecessary. In making such determination, the*
2 *Commissioner shall take into consideration the nature of*
3 *the individual's impairment (or combination of impair-*
4 *ments). Section 1631(c) shall not apply to a finding by the*
5 *Commissioner that the requirements of subclause (III)*
6 *should not apply to an individual's representative payee.”.*

7 *(d) EFFECTIVE DATE.—The amendments made by this*
8 *section shall apply to benefits for months beginning on or*
9 *after the date of the enactment of this Act, without regard*
10 *to whether regulations have been issued to implement such*
11 *amendments.*

12 **SEC. 12213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.**

13 *(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR*
14 *MARKET VALUE.—*

15 *(1) IN GENERAL.—Section 1613(c) (42 U.S.C.*
16 *1382b(c)) is amended to read as follows:*

17 *“(c) DISPOSAL OF RESOURCES FOR LESS THAN FAIR*
18 *MARKET VALUE.—(1)(A)(i) If an individual who has not*
19 *attained 18 years of age (or any person acting on such indi-*
20 *vidual's behalf) disposes of resources of the individual for*
21 *less than fair market value on or after the look-back date*
22 *specified in clause (ii)(I), the individual is ineligible for*
23 *benefits under this title for months during the period begin-*
24 *ning on the date specified in clause (iii) and equal to the*
25 *number of months specified in clause (iv).*

1 “(ii)(I) *The look-back date specified in this subclause*
2 *is a date that is 36 months before the date specified in*
3 *subclause (II).*

4 “(II) *The date specified in this subclause is the date*
5 *on which the individual applies for benefits under this title*
6 *or, if later, the date on which the disposal of the individual’s*
7 *resources for less than fair market value occurs.*

8 “(iii) *The date specified in this clause is the first day*
9 *of the first month that follows the month in which the indi-*
10 *vidual’s resources were disposed of for less than fair market*
11 *value and that does not occur in any other period of ineli-*
12 *gibility under this paragraph.*

13 “(iv) *The number of months of ineligibility under this*
14 *clause for an individual shall be equal to—*

15 “(I) *the total, cumulative uncompensated value*
16 *of all the individual’s resources so disposed of on or*
17 *after the look-back date specified in clause (ii)(I), di-*
18 *vided by*

19 “(II) *the amount of the maximum monthly bene-*
20 *fit payable under section 1611(b) to an eligible indi-*
21 *vidual for the month in which the date specified in*
22 *clause (ii)(II) occurs.*

23 “(B) *An individual shall not be ineligible for benefits*
24 *under this title by reason of subparagraph (A) if the Com-*
25 *missioner determines that—*

1 “(i) the individual intended to dispose of the re-
2 sources at fair market value;

3 “(ii) the resources were transferred exclusively
4 for a purpose other than to qualify for benefits under
5 this title;

6 “(iii) all resources transferred for less than fair
7 market value have been returned to the individual; or

8 “(iv) the denial of eligibility would work an
9 undue hardship on the individual (as determined on
10 the basis of criteria established by the Commissioner
11 in regulations).

12 “(C) For purposes of this paragraph, in the case of
13 a resource held by an individual in common with another
14 person or persons in a joint tenancy, tenancy in common,
15 or similar arrangement, the resource (or the affected portion
16 of such resource) shall be considered to be disposed of by
17 such individual when any action is taken, either by such
18 individual or by any other person, that reduces or elimi-
19 nates such individual’s ownership or control of such re-
20 source.

21 “(D)(i) Notwithstanding subparagraph (A), this sub-
22 section shall not apply to a transfer of a resource to a trust
23 if the portion of the trust attributable to such resource is
24 considered a resource available to the individual pursuant

1 to subsection (e)(3) (or would be so considered, but for the
2 application of subsection (e)(4)).

3 “(ii) In the case of a trust established by an individual
4 (within the meaning of paragraph (2)(A) of subsection (e)),
5 if from such portion of the trust (if any) that is considered
6 a resource available to the individual pursuant to para-
7 graph (3) of such subsection (or would be so considered but
8 for the application of paragraph (2) of such subsection) or
9 the residue of such portion upon the termination of the
10 trust—

11 “(I) there is made a payment other than to or
12 for the benefit of the individual, or

13 “(II) no payment could under any circumstance
14 be made to the individual,

15 then the payment described in subclause (I) or the fore-
16 closure of payment described in subclause (II) shall be con-
17 sidered a disposal of resources by the individual subject to
18 this subsection, as of the date of such payment or fore-
19 closure, respectively.

20 “(2)(A) At the time an individual (and the individ-
21 ual’s eligible spouse, if any) applies for benefits under this
22 title, and at the time the eligibility of an individual (and
23 such spouse, if any) for such benefits is redetermined, the
24 Commissioner of Social Security shall—

1 “(i) inform such individual of the provisions of
2 paragraph (1) providing for a period of ineligibility
3 for benefits under this title for individuals who make
4 certain dispositions of resources for less than fair
5 market value, and inform such individual that infor-
6 mation obtained pursuant to clause (ii) will be made
7 available to the State agency administering a State
8 plan under title XXI (as provided in subparagraph
9 (B)); and

10 “(ii) obtain from such individual information
11 which may be used in determining whether or not a
12 period of ineligibility for such benefits would be re-
13 quired by reason of paragraph (1).

14 “(B) The Commissioner of Social Security shall make
15 the information obtained under subparagraph (A)(ii) avail-
16 able, on request, to any State agency administering a State
17 plan approved under title XXI.

18 “(3) For purposes of this subsection—

19 “(A) the term ‘trust’ includes any legal instru-
20 ment or device that is similar to a trust; and

21 “(B) the term ‘benefits under this title’ includes
22 supplementary payments pursuant to an agreement
23 for Federal administration under section 1616(a),
24 and payments pursuant to an agreement entered into
25 under section 212(b) of Public Law 93–66.”.

1 “(ii) whether the trustees have or exercise any
2 discretion under the trust;

3 “(iii) any restrictions on when or whether dis-
4 tributions may be made from the trust; or

5 “(iv) any restrictions on the use of distributions
6 from the trust.

7 “(3)(A) In the case of a revocable trust, the corpus of
8 the trust shall be considered a resource available to the indi-
9 vidual.

10 “(B) In the case of an irrevocable trust, if there are
11 any circumstances under which payment from the trust
12 could be made to or for the benefit of the individual, the
13 portion of the corpus from which payment to or for the bene-
14 fit of the individual could be made shall be considered a
15 resource available to the individual.

16 “(4) The Commissioner may waive the application of
17 this subsection with respect to any individual if the Com-
18 missioner determines, on the basis of criteria prescribed in
19 regulations, that such application would work an undue
20 hardship on such individual.

21 “(5) For purposes of this subsection—

22 “(A) the term ‘trust’ includes any legal instru-
23 ment or device that is similar to a trust;

24 “(B) the term ‘corpus’ means all property and
25 other interests held by the trust, including accumu-

1 *lated earnings and any other addition to such trust*
2 *after its establishment (except that such term does not*
3 *include any such earnings or addition in the month*
4 *in which such earnings or addition is credited or oth-*
5 *erwise transferred to the trust);*

6 *“(C) the term ‘asset’ includes any income or re-*
7 *source of the individual, including—*

8 *“(i) any income otherwise excluded by sec-*
9 *tion 1612(b);*

10 *“(ii) any resource otherwise excluded by*
11 *this section; and*

12 *“(iii) any other payment or property that*
13 *the individual is entitled to but does not receive*
14 *or have access to because of action by—*

15 *“(I) such individual;*

16 *“(II) a person or entity (including a*
17 *court) with legal authority to act in place*
18 *of, or on behalf of, such individual; or*

19 *“(III) a person or entity (including a*
20 *court) acting at the direction of, or upon*
21 *the request of, such individual; and*

22 *“(D) the term ‘benefits under this title’ includes*
23 *supplementary payments pursuant to an agreement*
24 *for Federal administration under section 1616(a),*

1 *and payments pursuant to an agreement entered into*
2 *under section 212(b) of Public Law 93-66.”.*

3 (2) *TREATMENT AS INCOME.*—Section 1612(a)(2)
4 *(42 U.S.C. 1382a(a)(2)) is amended—*

5 (A) *by striking “and” at the end of sub-*
6 *paragraph (E);*

7 (B) *by striking the period at the end of sub-*
8 *paragraph (F) and inserting “; and”; and*

9 (C) *by adding at the end the following new*
10 *subparagraph:*

11 “(G) *any earnings of, and additions to, the*
12 *corpus of a trust (as defined in section 1613(f))*
13 *established by an individual (within the mean-*
14 *ing of paragraph (2)(A) of section 1613(e)) and*
15 *of which such individual is a beneficiary (other*
16 *than a trust to which paragraph (4) of such sec-*
17 *tion applies); except that in the case of an irrev-*
18 *ocable trust, there shall exist circumstances*
19 *under which payment from such earnings or ad-*
20 *ditions could be made to, or for the benefit of,*
21 *such individual.”.*

22 (3) *EFFECTIVE DATE.*—*The amendments made*
23 *by this subsection shall take effect on January 1,*
24 *1996, and shall apply to trusts established on or after*
25 *such date.*

1 (c) *REQUIREMENT TO ESTABLISH ACCOUNT.*—

2 (1) *IN GENERAL.*—Section 1631(a)(2) (42 U.S.C.
3 1383(a)(2)) is amended—

4 (A) by redesignating subparagraphs (F)
5 and (G) as subparagraphs (G) and (H), respec-
6 tively; and

7 (B) by inserting after subparagraph (E) the
8 following new subparagraph:

9 “(F)(i)(I) Each representative payee of an eligible in-
10 dividual under the age of 18 who is eligible for the payment
11 of benefits described in subclause (II) shall establish on be-
12 half of such individual an account in a financial institu-
13 tion into which such benefits shall be paid, and shall there-
14 after maintain such account for use in accordance with
15 clause (ii).

16 “(II) Benefits described in this subclause are past-due
17 monthly benefits under this title (which, for purposes of this
18 subclause, include State supplementary payments made by
19 the Commissioner pursuant to an agreement under section
20 1616 or section 212(b) of Public Law 93–66) in an amount
21 (after any withholding by the Commissioner for reimburse-
22 ment to a State for interim assistance under subsection (g))
23 that exceeds the product of—

24 “(aa) 6, and

1 “(bb) the maximum monthly benefit payable
2 under this title to an eligible individual.

3 “(ii)(I) A representative payee may use funds in the
4 account established under clause (i) to pay for allowable
5 expenses described in subclause (II).

6 “(II) An allowable expense described in this subclause
7 is an expense for—

8 “(aa) education or job skills training;

9 “(bb) personal needs assistance;

10 “(cc) special equipment;

11 “(dd) housing modification;

12 “(ee) medical treatment;

13 “(ff) therapy or rehabilitation; or

14 “(gg) any other item or service that the Commis-
15 sioner determines to be appropriate;

16 provided that such expense benefits such individual and, in
17 the case of an expense described in division (cc), (dd), (ff),
18 or (gg), is related to the impairment (or combination of
19 impairments) of such individual.

20 “(III) The use of funds from an account established
21 under clause (i) in any manner not authorized by this
22 clause—

23 “(aa) by a representative payee shall constitute
24 misuse of benefits for all purposes of this paragraph,
25 and any representative payee who knowingly misuses

1 *benefits from such an account shall be liable to the*
2 *Commissioner in an amount equal to the total*
3 *amount of such misused benefits; and*

4 *“(bb) by an eligible individual who is his or her*
5 *own representative payee shall be considered an over-*
6 *payment subject to recovery under subsection (b).*

7 *“(IV) This clause shall continue to apply to funds in*
8 *the account after the child has reached age 18, regardless*
9 *of whether benefits are paid directly to the beneficiary or*
10 *through a representative payee.*

11 *“(iii) The representative payee may deposit into the*
12 *account established pursuant to clause (i)—*

13 *“(I) past-due benefits payable to the eligible in-*
14 *dividual in an amount less than that specified in*
15 *clause (i)(II), and*

16 *“(II) any other funds representing an*
17 *underpayment under this title to such individual,*
18 *provided that the amount of such underpayment is*
19 *equal to or exceeds the maximum monthly benefit*
20 *payable under this title to an eligible individual.*

21 *“(iv) The Commissioner of Social Security shall estab-*
22 *lish a system for accountability monitoring whereby such*
23 *representative payee shall report, at such time and in such*
24 *manner as the Commissioner shall require, on activity re-*

1 *specting funds in the account established pursuant to clause*
2 *(i).”.*

3 (2) *EXCLUSION FROM RESOURCES.*—Section
4 *1613(a) (42 U.S.C. 1382b(a)) is amended—*

5 (A) *in paragraph (9), by striking “; and”*
6 *and inserting a semicolon;*

7 (B) *in the first paragraph (10), by striking*
8 *the period and inserting a semicolon;*

9 (C) *by redesignating the second paragraph*
10 *(10) as paragraph (11), and by striking the pe-*
11 *riod and inserting “; and”; and*

12 (D) *by adding at the end the following:*

13 *“(12) the assets and accrued interest or other*
14 *earnings of any account established and maintained*
15 *in accordance with section 1631(a)(2)(F).”.*

16 (3) *EXCLUSION FROM INCOME.*—Section *1612(b)*
17 *(42 U.S.C. 1382a(b)) is amended—*

18 (A) *by striking “and” at the end of para-*
19 *graph (19);*

20 (B) *by striking the period at the end of*
21 *paragraph (20) and inserting “; and”; and*

22 (C) *by adding at the end the following new*
23 *paragraph:*

1 “(21) the interest or other earnings on any ac-
2 count established and maintained in accordance with
3 section 1631(a)(2)(F).”.

4 (4) *EFFECTIVE DATE.*—The amendments made
5 by this subsection shall apply to payments made after
6 the date of the enactment of this Act.

7 **SEC. 12214. REDUCTION IN CASH BENEFITS PAYABLE TO IN-**
8 **STITUTIONALIZED INDIVIDUALS WHOSE MED-**
9 **ICAL COSTS ARE COVERED BY PRIVATE IN-**
10 **SURANCE.**

11 (a) *IN GENERAL.*—Section 1611(e)(1)(B) (42 U.S.C.
12 1382(e)(1)(B)) is amended—

13 (1) by striking “title XIX, or” and inserting
14 “title XIX,”; and

15 (2) by inserting “or, in the case of an eligible in-
16 dividual under the age of 18 receiving payments
17 (with respect to such individual) under any health in-
18 surance policy issued by a private provider of such
19 insurance” after “section 1614(f)(2)(B),”.

20 (b) *EFFECTIVE DATE.*—The amendment made by this
21 section shall apply to benefits for months beginning 90 or
22 more days after the date of the enactment of this Act, with-
23 out regard to whether regulations have been issued to imple-
24 ment such amendments.

1 **SEC. 12215. REGULATIONS.**

2 *Within 3 months after the date of the enactment of this*
3 *Act, the Commissioner of Social Security shall prescribe*
4 *such regulations as may be necessary to implement the*
5 *amendments made by sections 12211, 12212, 12213, and*
6 *12214.*

7 ***Subtitle C—Child Support***

8 **SEC. 12300. REFERENCE TO SOCIAL SECURITY ACT.**

9 *Except as otherwise specifically provided, where ever*
10 *in this subtitle an amendment is expressed in terms of an*
11 *amendment to or repeal of a section or other provision, the*
12 *reference shall be considered to be made to that section or*
13 *other provision of the Social Security Act.*

14 **CHAPTER 1—ELIGIBILITY FOR SERVICES;**
15 **DISTRIBUTION OF PAYMENTS**

16 **SEC. 12301. STATE OBLIGATION TO PROVIDE CHILD SUP-**
17 **PORT ENFORCEMENT SERVICES.**

18 *(a) STATE PLAN REQUIREMENTS.—Section 454 (42*
19 *U.S.C. 654) is amended—*

20 *(1) by striking paragraph (4) and inserting the*
21 *following new paragraph:*

22 *“(4) provide that the State will—*

23 *“(A) provide services relating to the estab-*
24 *lishment of paternity or the establishment, modi-*
25 *fication, or enforcement of child support obliga-*

1 *tions, as appropriate, under the plan with re-*
2 *spect to—*

3 *“(i) each child for whom (I) assistance*
4 *is provided under the State program funded*
5 *under part A of this title, (II) benefits or*
6 *services for foster care maintenance and*
7 *adoption assistance are provided under the*
8 *State program funded under part B of this*
9 *title, or (III) medical assistance is provided*
10 *under the State plan approved under title*
11 *XXI, unless the State agency administering*
12 *the plan determines (in accordance with*
13 *paragraph (29)) that it is against the best*
14 *interests of the child to do so; and*

15 *“(ii) any other child, if an individual*
16 *applies for such services with respect to the*
17 *child; and*

18 *“(B) enforce any support obligation estab-*
19 *lished with respect to—*

20 *“(i) a child with respect to whom the*
21 *State provides services under the plan; or*

22 *“(ii) the custodial parent of such a*
23 *child.”; and*

24 *(2) in paragraph (6)—*

1 (A) by striking “provide that” and insert-
2 ing “provide that—”;

3 (B) by striking subparagraph (A) and in-
4 serting the following new subparagraph:

5 “(A) services under the plan shall be made
6 available to residents of other States on the same
7 terms as to residents of the State submitting the
8 plan;”;

9 (C) in subparagraph (B), by inserting “on
10 individuals not receiving assistance under any
11 State program funded under part A” after “such
12 services shall be imposed”;

13 (D) in each of subparagraphs (B), (C), (D),
14 and (E)—

15 (i) by indenting the subparagraph in
16 the same manner as, and aligning the left
17 margin of the subparagraph with the left
18 margin of, the matter inserted by subpara-
19 graph (B) of this paragraph; and

20 (ii) by striking the final comma and
21 inserting a semicolon; and

22 (E) in subparagraph (E), by indenting each
23 of clauses (i) and (ii) 2 additional ems.

24 (b) CONTINUATION OF SERVICES FOR FAMILIES CEAS-
25 ING TO RECEIVE ASSISTANCE UNDER THE STATE PRO-

1 *GRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C.*
2 *654) is amended—*

3 *(1) by striking “and” at the end of paragraph*
4 *(23);*

5 *(2) by striking the period at the end of para-*
6 *graph (24) and inserting “; and”; and*

7 *(3) by adding after paragraph (24) the following*
8 *new paragraph:*

9 *“(25) provide that if a family with respect to*
10 *which services are provided under the plan ceases to*
11 *receive assistance under the State program funded*
12 *under part A, the State shall provide appropriate no-*
13 *tice to the family and continue to provide such serv-*
14 *ices, subject to the same conditions and on the same*
15 *basis as in the case of other individuals to whom serv-*
16 *ices are furnished under the plan, except that an ap-*
17 *plication or other request to continue services shall*
18 *not be required of such a family and paragraph*
19 *(6)(B) shall not apply to the family.”.*

20 *(c) CONFORMING AMENDMENTS.—*

21 *(1) Section 452(b) (42 U.S.C. 652(b)) is amend-*
22 *ed by striking “454(6)” and inserting “454(4)”.*

23 *(2) Section 452(g)(2)(A) (42 U.S.C.*
24 *652(g)(2)(A)) is amended by striking “454(6)” each*
25 *place it appears and inserting “454(4)(A)(ii)”.*

1 (3) Section 466(a)(3)(B) (42 U.S.C.
2 666(a)(3)(B)) is amended by striking “in the case of
3 overdue support which a State has agreed to collect
4 under section 454(6)” and inserting “in any other
5 case”.

6 (4) Section 466(e) (42 U.S.C. 666(e)) is amended
7 by striking “paragraph (4) or (6) of section 454” and
8 inserting “section 454(4)”.

9 **SEC. 12302. DISTRIBUTION OF CHILD SUPPORT COLLEC-**
10 **TIONS.**

11 (a) *IN GENERAL.*—Section 457 (42 U.S.C. 657) is
12 amended to read as follows:

13 **“SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.**

14 “(a) *IN GENERAL.*—An amount collected on behalf of
15 a family as support by a State pursuant to a plan approved
16 under this part shall be distributed as follows:

17 “(1) *FAMILIES RECEIVING ASSISTANCE.*—In the
18 case of a family receiving assistance from the State,
19 the State shall—

20 “(A) retain, or distribute to the family, the
21 State share of the amount so collected; and

22 “(B) pay to the Federal Government the
23 Federal share of the amount so collected.

1 “(2) *FAMILIES THAT FORMERLY RECEIVED AS-*
2 *SISTANCE.—In the case of a family that formerly re-*
3 *ceived assistance from the State:*

4 “(A) *CURRENT SUPPORT PAYMENTS.—To*
5 *the extent that the amount so collected does not*
6 *exceed the amount required to be paid to the*
7 *family for the month in which collected, the*
8 *State shall distribute the amount so collected to*
9 *the family.*

10 “(B) *PAYMENTS OF ARREARAGES.—To the*
11 *extent that the amount so collected exceeds the*
12 *amount required to be paid to the family for the*
13 *month in which collected, the State shall distrib-*
14 *ute the amount so collected as follows:*

15 “(i) *DISTRIBUTION OF ARREARAGES*
16 *THAT ACCRUED AFTER THE FAMILY CEASED*
17 *TO RECEIVE ASSISTANCE.—*

18 “(I) *PRE-OCTOBER 1997.—The*
19 *provisions of this section (other than*
20 *subsection (b)(1)) as in effect on the*
21 *day before the date of the enactment of*
22 *section 12302 of the Personal Respon-*
23 *sibility and Work Opportunity Act of*
24 *1995 shall apply with respect to the*

1 *distribution of support arrearages*
2 *that—*

3 *“(aa) accrued after the fam-*
4 *ily ceased to receive assistance,*
5 *and*

6 *“(bb) are collected before Oc-*
7 *tober 1, 1997.*

8 *“(II) POST-SEPTEMBER 1997.—*
9 *With respect to amounts collected on or*
10 *after October 1, 1997—*

11 *“(aa) IN GENERAL.—The*
12 *State shall distribute any amount*
13 *collected (other than amounts de-*
14 *scribed in clause (iv)) to the fam-*
15 *ily to the extent necessary to sat-*
16 *isfy any support arrearages with*
17 *respect to the family that accrued*
18 *after the family ceased to receive*
19 *assistance from the State.*

20 *“(bb) REIMBURSEMENT OF*
21 *GOVERNMENTS FOR ASSISTANCE*
22 *PROVIDED TO THE FAMILY.—To*
23 *the extent that division (aa) does*
24 *not apply to the amount, the*
25 *State shall retain the State share*

1989

1 *of the amount so collected, and*
2 *pay to the Federal Government*
3 *the Federal share (as defined in*
4 *subsection (c)(2)(A)) of the*
5 *amount so collected, to the extent*
6 *necessary to reimburse amounts*
7 *paid to the family as assistance*
8 *by the State.*

9 “(cc) *DISTRIBUTION OF THE*
10 *REMAINDER TO THE FAMILY.—To*
11 *the extent that neither division*
12 *(aa) nor division (bb) applies to*
13 *the amount so collected, the State*
14 *shall distribute the amount to the*
15 *family.*

16 “(ii) *DISTRIBUTION OF ARREARAGES*
17 *THAT ACCRUED BEFORE THE FAMILY RE-*
18 *CEIVED ASSISTANCE.—*

19 “(I) *PRE-OCTOBER 2000.—The*
20 *provisions of this section (other than*
21 *subsection (b)(1)) as in effect on the*
22 *day before the date of the enactment of*
23 *section 12302 of the Personal Respon-*
24 *sibility and Work Opportunity Act of*
25 *1995 shall apply with respect to the*

1990

1 *distribution of support arrearages*
2 *that—*

3 “(aa) *accrued before the fam-*
4 *ily received assistance, and*

5 “(bb) *are collected before Oc-*
6 *tober 1, 2000.*

7 “(II) *POST-SEPTEMBER 2000.—*
8 *Unless based on the report required by*
9 *paragraph (4), the Congress determines*
10 *otherwise, with respect to amounts col-*
11 *lected on or after October 1, 2000—*

12 “(aa) *IN GENERAL.—The*
13 *State shall first distribute any*
14 *amount collected (other than*
15 *amounts described in clause (iv))*
16 *to the family to the extent nec-*
17 *essary to satisfy any support ar-*
18 *rears with respect to the family*
19 *that accrued before the family re-*
20 *ceived assistance from the State .*

21 “(bb) *REIMBURSEMENT OF*
22 *GOVERNMENTS FOR ASSISTANCE*
23 *PROVIDED TO THE FAMILY.—The*
24 *State shall retain the State share*
25 *of the amounts so collected in ex-*

1 *cess of those distributed pursuant*
2 *to division (aa) and pay to the*
3 *Federal Government the Federal*
4 *share (as defined in subsection*
5 *(c)(2)) of the amount so collected,*
6 *to the extent necessary to reim-*
7 *burse all or part of the amounts*
8 *paid to the family as assistance*
9 *by the State.*

10 “(cc) *DISTRIBUTION OF THE*
11 *REMAINDER TO THE FAMILY.—To*
12 *the extent that neither division*
13 *(aa) nor division (bb) applies to*
14 *the amount so collected, the State*
15 *shall distribute the amount to the*
16 *family.*

17 “(iii) *DISTRIBUTION OF ARREARAGES*
18 *THAT ACCRUED WHILE THE FAMILY RE-*
19 *CEIVED ASSISTANCE.—In the case of a fam-*
20 *ily described in this subparagraph, the pro-*
21 *visions of paragraph (1) shall apply with*
22 *respect to the distribution of support arrear-*
23 *ages that accrued while the family received*
24 *assistance.*

1 “(iv) *AMOUNTS COLLECTED PURSUANT*
2 *TO SECTION 464.—Notwithstanding any*
3 *other provision of this section, any amount*
4 *of support collected pursuant to section 464*
5 *shall be retained by the State to the extent*
6 *necessary to reimburse amounts paid to the*
7 *family as assistance by the State. The State*
8 *shall pay to the Federal Government the*
9 *Federal share of the amounts so retained.*
10 *To the extent the amount collected pursuant*
11 *to section 464 exceeds the amount so re-*
12 *tained, the State shall distribute the excess*
13 *to the family.*

14 “(v) *ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph,*
15 *the State shall treat any support arrearages*
16 *collected as accruing in the following order:*

17 “(I) *to the period after the family*
18 *ceased to receive assistance;*

19 “(II) *to the period before the fam-*
20 *ily received assistance; and*

21 “(III) *to the period while the fam-*
22 *ily was receiving assistance.*
23

1 “(3) *FAMILIES THAT NEVER RECEIVED ASSIST-*
2 *ANCE.—In the case of any other family, the State*
3 *shall distribute the amount so collected to the family.*

4 “(4) *STUDY AND REPORT.—Not later than Octo-*
5 *ber 1, 1998, the Secretary shall report to the Congress*
6 *the Secretary’s findings with respect to—*

7 “(A) *whether the distribution of post-assist-*
8 *ance arrearages to families has been effective in*
9 *moving people off of welfare and keeping them*
10 *off of welfare;*

11 “(B) *whether early implementation of a*
12 *pre-assistance arrearage program by some states*
13 *has been effective in moving people off of welfare*
14 *and keeping them off of welfare;*

15 “(C) *what the overall impact has been of the*
16 *amendments made by the Personal Responsibil-*
17 *ity and Work Opportunity Act of 1995 with re-*
18 *spect to child support enforcement in moving*
19 *people off of welfare and keeping them off of wel-*
20 *fare; and*

21 “(D) *based on the information and data the*
22 *Secretary has obtained, what changes, if any,*
23 *should be made in the policies related to the dis-*
24 *tribution of child support arrearages.*

1 “(b) *CONTINUATION OF ASSIGNMENTS.*—*Any rights to*
2 *support obligations, which were assigned to a State as a*
3 *condition of receiving assistance from the State under part*
4 *A and which were in effect on the day before the date of*
5 *the enactment of the Personal Responsibility and Work Op-*
6 *portunity Act of 1995, shall remain assigned after such*
7 *date.*

8 “(c) *DEFINITIONS.*—*As used in subsection (a):*

9 “(1) *ASSISTANCE.*—*The term ‘assistance from*
10 *the State’ means—*

11 “(A) *assistance under the State program*
12 *funded under part A or under the State plan ap-*
13 *proved under part A of this title (as in effect on*
14 *the day before the date of the enactment of the*
15 *Personal Responsibility and Work Opportunity*
16 *Act of 1995); or*

17 “(B) *benefits under the State plan approved*
18 *under part E of this title (as in effect on the day*
19 *before the date of the enactment of the Personal*
20 *Responsibility and Work Opportunity Act of*
21 *1995).*

22 “(2) *FEDERAL SHARE.*—*The term ‘Federal share’*
23 *means—*

24 “(A) *if the amounts collected and retained*
25 *by the State (to the extent necessary to reimburse*

1 *amounts paid to families as assistance by the*
2 *State) are equal to or greater than such amounts*
3 *collected in fiscal year 1995 (reduced by amounts*
4 *not retained by the State in fiscal year 1995 as*
5 *a result of the application of subsection (b)(1) of*
6 *this section as in effect on the day before the date*
7 *of the enactment of the Personal Responsibility*
8 *and Work Opportunity Act of 1995), the highest*
9 *Federal medical assistance percentage in effect*
10 *for the State in fiscal year 1995 or any succeed-*
11 *ing year of the amount so collected; or*

12 “(B) *if the amounts so collected and re-*
13 *tained by the State are less than such amounts*
14 *collected in fiscal year 1995 (reduced by amounts*
15 *not retained by the State in fiscal year 1995 as*
16 *a result of the application of subsection (b)(1) of*
17 *this section as in effect on the day before the date*
18 *of the enactment of the Personal Responsibility*
19 *and Work Opportunity Act of 1995), the*
20 *amounts so collected and retained less the State*
21 *share in fiscal year 1995.*

22 “(3) *FEDERAL MEDICAL ASSISTANCE PERCENT-*
23 *AGE.—The term ‘Federal medical assistance percent-*
24 *age’ means—*

1 “(A) the Federal medical assistance percent-
2 age (as defined in section 1118), in the case of
3 Puerto Rico, the Virgin Islands, Guam, and
4 American Samoa; or

5 “(B) the Federal medical assistance percent-
6 age (as defined in section 2122(c)) in the case of
7 any other State.

8 “(4) STATE SHARE.—The term ‘State share’
9 means 100 percent minus the Federal share.

10 “(d) CONTINUATION OF SERVICES FOR FAMILIES
11 CEASING TO RECEIVE ASSISTANCE UNDER THE STATE
12 PROGRAM FUNDED UNDER PART A.—When a family with
13 respect to which services are provided under a State plan
14 approved under this part ceases to receive assistance under
15 the State program funded under part A, the State shall pro-
16 vide appropriate notice to the family and continue to pro-
17 vide such services, subject to the same conditions and on
18 the same basis as in the case of individuals to whom services
19 are furnished under section 454, except that an application
20 or other request to continue services shall not be required
21 of such a family and section 454(6)(B) shall not apply to
22 the family.”.

23 (b) CONFORMING AMENDMENT.—Section 464(a)(1) (42
24 U.S.C. 664(a)(1)) is amended by striking “section 457(b)(4)
25 or (d)(3)” and inserting “section 457”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall be effective on October 1, 1996, or earlier at*
3 *the State’s option.*

4 ***SEC. 12303. PRIVACY SAFEGUARDS.***

5 (a) *STATE PLAN REQUIREMENT.*—*Section 454 (42*
6 *U.S.C. 654), as amended by section 12301(b) of this Act,*
7 *is amended—*

8 (1) *by striking “and” at the end of paragraph*
9 *(24);*

10 (2) *by striking the period at the end of para-*
11 *graph (25) and inserting “; and”; and*

12 (3) *by adding after paragraph (25) the following*
13 *new paragraph:*

14 “(26) *will have in effect safeguards, applicable to*
15 *all confidential information handled by the State*
16 *agency, that are designed to protect the privacy rights*
17 *of the parties, including—*

18 “(A) *safeguards against unauthorized use or*
19 *disclosure of information relating to proceedings*
20 *or actions to establish paternity, or to establish*
21 *or enforce support;*

22 “(B) *prohibitions against the release of in-*
23 *formation on the whereabouts of 1 party to an-*
24 *other party against whom a protective order*

1 *with respect to the former party has been en-*
 2 *tered; and*

3 “(C) prohibitions against the release of in-
 4 *formation on the whereabouts of 1 party to an-*
 5 *other party if the State has reason to believe that*
 6 *the release of the information may result in*
 7 *physical or emotional harm to the former*
 8 *party.”.*

9 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 10 *section (a) shall become effective on October 1, 1997.*

11 **CHAPTER 2—LOCATE AND CASE**

12 **TRACKING**

13 **SEC. 12311. STATE CASE REGISTRY.**

14 *Section 454A, as added by section 12344(a)(2) of this*
 15 *Act, is amended by adding at the end the following new*
 16 *subsections:*

17 “(e) *STATE CASE REGISTRY.*—

18 “(1) *CONTENTS.*—*The automated system re-*
 19 *quired by this section shall include a registry (which*
 20 *shall be known as the ‘State case registry’) that con-*
 21 *tains records with respect to—*

22 “(A) *each case in which services are being*
 23 *provided by the State agency under the State*
 24 *plan approved under this part; and*

1 “(B) each support order established or
2 modified in the State on or after October 1,
3 1998.

4 “(2) *LINKING OF LOCAL REGISTRIES.*—The State
5 case registry may be established by linking local case
6 registries of support orders through an automated in-
7 formation network, subject to this section.

8 “(3) *USE OF STANDARDIZED DATA ELEMENTS.*—
9 Such records shall use standardized data elements for
10 both parents (such as names, social security numbers
11 and other uniform identification numbers, dates of
12 birth, and case identification numbers), and contain
13 such other information (such as on-case status) as the
14 Secretary may require.

15 “(4) *PAYMENT RECORDS.*—Each case record in
16 the State case registry with respect to which services
17 are being provided under the State plan approved
18 under this part and with respect to which a support
19 order has been established shall include a record of—

20 “(A) the amount of monthly (or other peri-
21 odic) support owed under the order, and other
22 amounts (including arrearages, interest or late
23 payment penalties, and fees) due or overdue
24 under the order;

1 “(B) any amount described in subpara-
2 graph (A) that has been collected;

3 “(C) the distribution of such collected
4 amounts;

5 “(D) the birth date of any child for whom
6 the order requires the provision of support; and

7 “(E) the amount of any lien imposed with
8 respect to the order pursuant to section
9 466(a)(4).

10 “(5) *UPDATING AND MONITORING.*—The State
11 agency operating the automated system required by
12 this section shall promptly establish and maintain,
13 and regularly monitor, case records in the State case
14 registry with respect to which services are being pro-
15 vided under the State plan approved under this part,
16 on the basis of—

17 “(A) information on administrative actions
18 and administrative and judicial proceedings and
19 orders relating to paternity and support;

20 “(B) information obtained from comparison
21 with Federal, State, or local sources of informa-
22 tion;

23 “(C) information on support collections and
24 distributions; and

25 “(D) any other relevant information.

1 “(f) *INFORMATION COMPARISONS AND OTHER DISCLO-*
2 *SURES OF INFORMATION.*—*The State shall use the auto-*
3 *mated system required by this section to extract informa-*
4 *tion from (at such times, and in such standardized format*
5 *or formats, as may be required by the Secretary), to share*
6 *and compare information with, and to receive information*
7 *from, other data bases and information comparison serv-*
8 *ices, in order to obtain (or provide) information necessary*
9 *to enable the State agency (or the Secretary or other State*
10 *or Federal agencies) to carry out this part, subject to section*
11 *6103 of the Internal Revenue Code of 1986. Such informa-*
12 *tion comparison activities shall include the following:*

13 “(1) *FEDERAL CASE REGISTRY OF CHILD SUP-*
14 *PORT ORDERS.*—*Furnishing to the Federal Case Reg-*
15 *istry of Child Support Orders established under sec-*
16 *tion 453(h) (and update as necessary, with informa-*
17 *tion including notice of expiration of orders) the min-*
18 *imum amount of information on child support cases*
19 *recorded in the State case registry that is necessary*
20 *to operate the registry (as specified by the Secretary*
21 *in regulations).*

22 “(2) *FEDERAL PARENT LOCATOR SERVICE.*—*Ex-*
23 *changing information with the Federal Parent Loca-*
24 *tor Service for the purposes specified in section 453.*

1 “(3) *TEMPORARY FAMILY ASSISTANCE AND*
2 *MEDIGRANT AGENCIES.*—*Exchanging information*
3 *with State agencies (of the State and of other States)*
4 *administering programs funded under part A, pro-*
5 *grams operated under State plans under title XXI,*
6 *and other programs designated by the Secretary, as*
7 *necessary to perform State agency responsibilities*
8 *under this part and under such programs.*

9 “(4) *INTRASTATE AND INTERSTATE INFORMATION*
10 *COMPARISONS.*—*Exchanging information with other*
11 *agencies of the State, agencies of other States, and*
12 *interstate information networks, as necessary and ap-*
13 *propriate to carry out (or assist other States to carry*
14 *out) the purposes of this part.”.*

15 **SEC. 12312. COLLECTION AND DISBURSEMENT OF SUPPORT**
16 **PAYMENTS.**

17 (a) *STATE PLAN REQUIREMENT.*—*Section 454 (42*
18 *U.S.C. 654), as amended by sections 12301(b) and 12303(a)*
19 *of this Act, is amended—*

20 (1) *by striking “and” at the end of paragraph*
21 *(25);*

22 (2) *by striking the period at the end of para-*
23 *graph (26) and inserting “; and”; and*

24 (3) *by adding after paragraph (26) the following*
25 *new paragraph:*

1 “(27) provide that, on and after October 1, 1998,
2 the State agency will—

3 “(A) operate a State disbursement unit in
4 accordance with section 454B; and

5 “(B) have sufficient State staff (consisting
6 of State employees) and (at State option) con-
7 tractors reporting directly to the State agency
8 to—

9 “(i) monitor and enforce support col-
10 lections through the unit (including carry-
11 ing out the automated data processing re-
12 sponsibilities described in section 454A(g));
13 and

14 “(ii) take the actions described in sec-
15 tion 466(c)(1) in appropriate cases.”.

16 (b) *ESTABLISHMENT OF STATE DISBURSEMENT*
17 *UNIT.*—Part D of title IV (42 U.S.C. 651–669), as amended
18 by section 12344(a)(2) of this Act, is amended by inserting
19 after section 454A the following new section:

20 **“SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT**
21 **PAYMENTS.**

22 “(a) *STATE DISBURSEMENT UNIT.*—

23 “(1) *IN GENERAL.*—In order for a State to meet
24 the requirements of this section, the State agency
25 must establish and operate a unit (which shall be

1 *known as the ‘State disbursement unit’) for the collec-*
2 *tion and disbursement of payments under support or-*
3 *ders in all cases being enforced by the State pursuant*
4 *to section 454(4).*

5 “(2) *OPERATION.—The State disbursement unit*
6 *shall be operated—*

7 “(A) *directly by the State agency (or 2 or*
8 *more State agencies under a regional cooperative*
9 *agreement), or (to the extent appropriate) by a*
10 *contractor responsible directly to the State agen-*
11 *cy; and*

12 “(B) *in coordination with the automated*
13 *system established by the State pursuant to sec-*
14 *tion 454A.*

15 “(3) *LINKING OF LOCAL DISBURSEMENT*
16 *UNITS.—The State disbursement unit may be estab-*
17 *lished by linking local disbursement units through an*
18 *automated information network, subject to this sec-*
19 *tion, if the Secretary agrees that the system will not*
20 *cost more nor take more time to establish or operate*
21 *than a centralized system. In addition, employers*
22 *shall be given 1 location to which income withholding*
23 *is sent.*

24 “(b) *REQUIRED PROCEDURES.—The State disburse-*
25 *ment unit shall use automated procedures, electronic proc-*

1 *esses, and computer-driven technology to the maximum ex-*
2 *tent feasible, efficient, and economical, for the collection and*
3 *disbursement of support payments, including procedures—*

4 “(1) *for receipt of payments from parents, em-*
5 *ployers, and other States, and for disbursements to*
6 *custodial parents and other obligees, the State agency,*
7 *and the agencies of other States;*

8 “(2) *for accurate identification of payments;*

9 “(3) *to ensure prompt disbursement of the custo-*
10 *dial parent’s share of any payment; and*

11 “(4) *to furnish to any parent, upon request,*
12 *timely information on the current status of support*
13 *payments under an order requiring payments to be*
14 *made by or to the parent.*

15 “(c) *TIMING OF DISBURSEMENTS.—*

16 “(1) *IN GENERAL.—Except as provided in para-*
17 *graph (2), the State disbursement unit shall distribute*
18 *all amounts payable under section 457(a) within 2*
19 *business days after receipt from the employer or other*
20 *source of periodic income, if sufficient information*
21 *identifying the payee is provided.*

22 “(2) *PERMISSIVE RETENTION OF ARREARAGES.—*
23 *The State disbursement unit may delay the distribu-*
24 *tion of collections toward arrearages until the resolu-*

1 *tion of any timely appeal with respect to such arrear-*
2 *ages.*

3 “(d) *BUSINESS DAY DEFINED.*—*As used in this sec-*
4 *tion, the term ‘business day’ means a day on which State*
5 *offices are open for regular business.”.*

6 (c) *USE OF AUTOMATED SYSTEM.*—*Section 454A, as*
7 *added by section 12344(a)(2) and as amended by section*
8 *12311 of this Act, is amended by adding at the end the*
9 *following new subsection:*

10 “(g) *COLLECTION AND DISTRIBUTION OF SUPPORT*
11 *PAYMENTS.*—

12 “(1) *IN GENERAL.*—*The State shall use the auto-*
13 *mated system required by this section, to the maxi-*
14 *mum extent feasible, to assist and facilitate the collec-*
15 *tion and disbursement of support payments through*
16 *the State disbursement unit operated under section*
17 *454B, through the performance of functions, includ-*
18 *ing, at a minimum—*

19 “(A) *transmission of orders and notices to*
20 *employers (and other debtors) for the withholding*
21 *of wages and other income—*

22 “(i) *within 2 business days after re-*
23 *ceipt from a court, another State, an em-*
24 *ployer, the Federal Parent Locator Service,*
25 *or another source recognized by the State of*

1 notice of, and the income source subject to,
2 such withholding; and

3 “(ii) using uniform formats prescribed
4 by the Secretary;

5 “(B) ongoing monitoring to promptly iden-
6 tify failures to make timely payment of support;
7 and

8 “(C) automatic use of enforcement proce-
9 dures (including procedures authorized pursuant
10 to section 466(c)) if payments are not timely
11 made.

12 “(2) *BUSINESS DAY DEFINED.*—As used in para-
13 graph (1), the term ‘business day’ means a day on
14 which State offices are open for regular business.”.

15 (d) *EFFECTIVE DATE.*—The amendments made by this
16 section shall become effective on October 1, 1998.

17 **SEC. 12313. STATE DIRECTORY OF NEW HIRES.**

18 (a) *STATE PLAN REQUIREMENT.*—Section 454 (42
19 U.S.C. 654), as amended by sections 12301(b), 12303(a)
20 and 12312(a) of this Act, is amended—

21 (1) by striking “and” at the end of paragraph
22 (26);

23 (2) by striking the period at the end of para-
24 graph (27) and inserting “; and”; and

1 (3) by adding after paragraph (27) the following
2 new paragraph:

3 “(28) provide that, on and after October 1, 1997,
4 the State will operate a State Directory of New Hires
5 in accordance with section 453A.”.

6 (b) *STATE DIRECTORY OF NEW HIRES.*—Part D of
7 title IV (42 U.S.C. 651–669) is amended by inserting after
8 section 453 the following new section:

9 “**SEC. 453A. STATE DIRECTORY OF NEW HIRES.**

10 “(a) *ESTABLISHMENT.*—

11 “(1) *IN GENERAL.*—

12 “(A) *REQUIREMENT FOR STATES THAT*
13 *HAVE NO DIRECTORY.*—Except as provided in
14 subparagraph (B), not later than October 1,
15 1997, each State shall establish an automated di-
16 rectory (to be known as the ‘State Directory of
17 New Hires’) which shall contain information
18 supplied in accordance with subsection (b) by
19 employers on each newly hired employee.

20 “(B) *STATES WITH NEW HIRE REPORTING*
21 *IN EXISTENCE.*—A State which has a new hire
22 reporting law in existence on the date of the en-
23 actment of this section may continue to operate
24 under the State law, but the State must meet the

1 requirements of this section (other than sub-
2 section (f)) not later than October 1, 1997.

3 “(2) *DEFINITIONS.*—As used in this section:

4 “(A) *EMPLOYEE.*—The term ‘employee’—

5 “(i) means an individual who is an
6 employee within the meaning of chapter 24
7 of the Internal Revenue Code of 1986; and

8 “(ii) does not include an employee of a
9 Federal or State agency performing intel-
10 ligence or counterintelligence functions, if
11 the head of such agency has determined that
12 reporting pursuant to paragraph (1) with
13 respect to the employee could endanger the
14 safety of the employee or compromise an on-
15 going investigation or intelligence mission.

16 “(B) *EMPLOYER.*—

17 “(i) *IN GENERAL.*—The term ‘em-
18 ployer’ has the meaning given such term in
19 section 3401(d) of the Internal Revenue
20 Code of 1996 and includes any govern-
21 mental entity and any labor organization.

22 “(ii) *LABOR ORGANIZATION.*—The
23 term ‘labor organization’ shall have the
24 meaning given such term in section 2(5) of
25 the National Labor Relations Act, and in-

1 *cludes any entity (also known as a 'hiring*
2 *hall') which is used by the organization and*
3 *an employer to carry out requirements de-*
4 *scribed in section 8(f)(3) of such Act of an*
5 *agreement between the organization and the*
6 *employer.*

7 “(b) *EMPLOYER INFORMATION.—*

8 “*(1) REPORTING REQUIREMENT.—*

9 “*(A) IN GENERAL.—Except as provided in*
10 *subparagraphs (B) and (C), each employer shall*
11 *furnish to the Directory of New Hires of the*
12 *State in which a newly hired employee works, a*
13 *report that contains the name, address, and so-*
14 *cial security number of the employee, and the*
15 *name of, and identifying number assigned under*
16 *section 6109 of the Internal Revenue Code of*
17 *1986 to, the employer.*

18 “*(B) MULTISTATE EMPLOYERS.—An em-*
19 *ployer that has employees who are employed in*
20 *2 or more States and that transmits reports*
21 *magnetically or electronically may comply with*
22 *subparagraph (A) by designating 1 State in*
23 *which such employer has employees to which the*
24 *employer will transmit the report described in*
25 *subparagraph (A), and transmitting such report*

1 to such State. Any employer that transmits re-
2 ports pursuant to this subparagraph shall notify
3 the Secretary in writing as to which State such
4 employer designates for the purpose of sending
5 reports.

6 “(C) *FEDERAL GOVERNMENT EMPLOYERS.*—
7 Any department, agency, or instrumentality of
8 the United States shall comply with subpara-
9 graph (A) by transmitting the report described
10 in subparagraph (A) to the National Directory
11 of New Hires established pursuant to section
12 453.

13 “(2) *TIMING OF REPORT.*—Each State may pro-
14 vide the time within which the report required by
15 paragraph (1) shall be made with respect to an em-
16 ployee, but such report shall be made not later than
17 20 days after the date the employer hires the em-
18 ployee.

19 “(c) *REPORTING FORMAT AND METHOD.*—Each report
20 required by subsection (b) shall be made on a W-4 form
21 or, at the option of the employer, an equivalent form, and
22 may be transmitted by 1st class mail, magnetically, or elec-
23 tronically.

1 “(d) *CIVIL MONEY PENALTIES ON NONCOMPLYING EM-*
2 *PLOYERS.*—*The State shall have the option to set a State*
3 *civil money penalty which shall be less than—*

4 “(1) \$25; or

5 “(2) \$500 if, under State law, the failure is the
6 *result of a conspiracy between the employer and the*
7 *employee to not supply the required report or to sup-*
8 *ply a false or incomplete report.*

9 “(e) *ENTRY OF EMPLOYER INFORMATION.*—*Informa-*
10 *tion shall be entered into the data base maintained by the*
11 *State Directory of New Hires within 5 business days of re-*
12 *ceipt from an employer pursuant to subsection (b).*

13 “(f) *INFORMATION COMPARISONS.*—

14 “(1) *IN GENERAL.*—*Not later than May 1, 1998,*
15 *an agency designated by the State shall, directly or*
16 *by contract, conduct automated comparisons of the so-*
17 *cial security numbers reported by employers pursuant*
18 *to subsection (b) and the social security numbers ap-*
19 *pearing in the records of the State case registry for*
20 *cases being enforced under the State plan.*

21 “(2) *NOTICE OF MATCH.*—*When an information*
22 *comparison conducted under paragraph (1) reveals a*
23 *match with respect to the social security number of an*
24 *individual required to provide support under a sup-*
25 *port order, the State Directory of New Hires shall*

1 *provide the agency administering the State plan ap-*
2 *proved under this part of the appropriate State with*
3 *the name, address, and social security number of the*
4 *employee to whom the social security number is as-*
5 *signed, and the name of, and identifying number as-*
6 *signed under section 6109 of the Internal Revenue*
7 *Code of 1986 to, the employer.*

8 “(g) *TRANSMISSION OF INFORMATION.*—

9 “(1) *TRANSMISSION OF WAGE WITHHOLDING NO-*
10 *TICES TO EMPLOYERS.*—*Within 2 business days after*
11 *the date information regarding a newly hired em-*
12 *ployee is entered into the State Directory of New*
13 *Hires, the State agency enforcing the employee’s child*
14 *support obligation shall transmit a notice to the em-*
15 *ployer of the employee directing the employer to with-*
16 *hold from the wages of the employee an amount equal*
17 *to the monthly (or other periodic) child support obli-*
18 *gation (including any past due support obligation) of*
19 *the employee, unless the employee’s wages are not sub-*
20 *ject to withholding pursuant to section 466(b)(3).*

21 “(2) *TRANSMISSIONS TO THE NATIONAL DIREC-*
22 *TORY OF NEW HIRES.*—

23 “(A) *NEW HIRE INFORMATION.*—*Within 3*
24 *business days after the date information regard-*
25 *ing a newly hired employee is entered into the*

1 *State Directory of New Hires, the State Direc-*
2 *tory of New Hires shall furnish the information*
3 *to the National Directory of New Hires.*

4 “(B) *WAGE AND UNEMPLOYMENT COM-*
5 *PENSATION INFORMATION.*—*The State Directory*
6 *of New Hires shall, on a quarterly basis, furnish*
7 *to the National Directory of New Hires extracts*
8 *of the reports required under section 303(a)(6) to*
9 *be made to the Secretary of Labor concerning the*
10 *wages and unemployment compensation paid to*
11 *individuals, by such dates, in such format, and*
12 *containing such information as the Secretary of*
13 *Health and Human Services shall specify in reg-*
14 *ulations.*

15 “(3) *BUSINESS DAY DEFINED.*—*As used in this*
16 *subsection, the term ‘business day’ means a day on*
17 *which State offices are open for regular business.*

18 “(h) *OTHER USES OF NEW HIRE INFORMATION.*—

19 “(1) *LOCATION OF CHILD SUPPORT OBLIGORS.*—
20 *The agency administering the State plan approved*
21 *under this part shall use information received pursu-*
22 *ant to subsection (f)(2) to locate individuals for pur-*
23 *poses of establishing paternity and establishing, modi-*
24 *fying, and enforcing child support obligations.*

1 “(2) *VERIFICATION OF ELIGIBILITY FOR CERTAIN*
2 *PROGRAMS.—A State agency responsible for admin-*
3 *istering a program specified in section 1137(b) shall*
4 *have access to information reported by employers pur-*
5 *suant to subsection (b) of this section for purposes of*
6 *verifying eligibility for the program.*”

7 “(3) *ADMINISTRATION OF EMPLOYMENT SECUR-*
8 *ITY AND WORKERS’ COMPENSATION.—State agencies*
9 *operating employment security and workers’ com-*
10 *ensation programs shall have access to information*
11 *reported by employers pursuant to subsection (b) for*
12 *the purposes of administering such programs.”.*

13 (c) *QUARTERLY WAGE REPORTING.—Section*
14 *1137(a)(3) (42 U.S.C. 1320b-7(a)(3)) is amended—*

15 (1) *by inserting “(including State and local gov-*
16 *ernmental entities and labor organizations (as defined*
17 *in section 453A(a)(2)(B)(iii))” after “employers”;*
18 *and*

19 (2) *by inserting “, and except that no report*
20 *shall be filed with respect to an employee of a State*
21 *or local agency performing intelligence or counter-*
22 *intelligence functions, if the head of such agency has*
23 *determined that filing such a report could endanger*
24 *the safety of the employee or compromise an ongoing*

1 *investigation or intelligence mission” after “para-*
2 *graph (2)”.*

3 **SEC. 12314. AMENDMENTS CONCERNING INCOME WITH-**
4 **HOLDING.**

5 *(a) MANDATORY INCOME WITHHOLDING.—*

6 *(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C.*
7 *666(a)(1)) is amended to read as follows:*

8 *“(1)(A) Procedures described in subsection (b)*
9 *for the withholding from income of amounts payable*
10 *as support in cases subject to enforcement under the*
11 *State plan.*

12 *“(B) Procedures under which the wages of a per-*
13 *son with a support obligation imposed by a support*
14 *order issued (or modified) in the State before October*
15 *1, 1996, if not otherwise subject to withholding under*
16 *subsection (b), shall become subject to withholding as*
17 *provided in subsection (b) if arrearages occur, without*
18 *the need for a judicial or administrative hearing.”.*

19 *(2) CONFORMING AMENDMENTS.—*

20 *(A) Section 466(b) (42 U.S.C. 666(b)) is*
21 *amended in the matter preceding paragraph (1),*
22 *by striking “subsection (a)(1)” and inserting*
23 *“subsection (a)(1)(A)”.*

24 *(B) Section 466(b)(4) (42 U.S.C. 666(b)(4))*
25 *is amended to read as follows:*

1 “(4)(A) *Such withholding must be carried out in*
2 *full compliance with all procedural due process re-*
3 *quirements of the State, and the State must send no-*
4 *tice to each noncustodial parent to whom paragraph*
5 *(1) applies—*

6 “(i) *that the withholding has commenced;*

7 *and*

8 “(ii) *of the procedures to follow if the*
9 *noncustodial parent desires to contest such with-*
10 *holding on the grounds that the withholding or*
11 *the amount withheld is improper due to a mis-*
12 *take of fact.*

13 “(B) *The notice under subparagraph (A) of this*
14 *paragraph shall include the information provided to*
15 *the employer under paragraph (6)(A).”.*

16 (C) *Section 466(b)(5) (42 U.S.C. 666(b)(5))*
17 *is amended by striking all that follows “adminis-*
18 *tered by” and inserting “the State through the*
19 *State disbursement unit established pursuant to*
20 *section 454B, in accordance with the require-*
21 *ments of section 454B.”.*

22 (D) *Section 466(b)(6)(A) (42 U.S.C.*
23 *666(b)(6)(A)) is amended—*

24 (i) *in clause (i), by striking “to the ap-*
25 *propriate agency” and all that follows and*

1 *inserting “to the State disbursement unit*
2 *within 2 business days after the date the*
3 *amount would (but for this subsection) have*
4 *been paid or credited to the employee, for*
5 *distribution in accordance with this part.*
6 *The employer shall comply with the proce-*
7 *dural rules relating to income withholding*
8 *of the State in which the employee works,*
9 *regardless of the State where the notice*
10 *originates.”.*

11 *(ii) in clause (ii), by inserting “be in*
12 *a standard format prescribed by the Sec-*
13 *retary, and” after “shall”; and*

14 *(iii) by adding at the end the following*
15 *new clause:*

16 *“(iii) As used in this subparagraph, the term*
17 *‘business day’ means a day on which State offices are*
18 *open for regular business.”.*

19 *(E) Section 466(b)(6)(D) (42 U.S.C.*
20 *666(b)(6)(D)) is amended by striking “any em-*
21 *ployer” and all that follows and inserting “any*
22 *employer who—*

23 *“(i) discharges from employment, refuses to*
24 *employ, or takes disciplinary action against any*
25 *noncustodial parent subject to wage withholding*

1 “(2) information on the individual’s wages (or
2 other income) from, and benefits of, employment (in-
3 cluding rights to or enrollment in group health care
4 coverage); and

5 “(3) information on the type, status, location,
6 and amount of any assets of, or debts owed by or to,
7 any such individual.”; and

8 (2) in subsection (b)—

9 (A) in the matter preceding paragraph (1),
10 by striking “social security” and all that follows
11 through “absent parent” and inserting “informa-
12 tion described in subsection (a)”;

13 (B) in the flush paragraph at the end, by
14 adding the following: “No information shall be
15 disclosed to any person if the State has notified
16 the Secretary that the State has reasonable evi-
17 dence of domestic violence or child abuse and the
18 disclosure of such information could be harmful
19 to the custodial parent or the child of such par-
20 ent. Information received or transmitted pursu-
21 ant to this section shall be subject to the safe-
22 guard provisions contained in section 454(26).”.

23 (b) *AUTHORIZED PERSON FOR INFORMATION REGARD-*
24 *ING VISITATION RIGHTS.*—Section 453(c) (42 U.S.C.
25 653(c)) is amended—

1 (1) in paragraph (1), by striking “support” and
2 inserting “support or to seek to enforce orders provid-
3 ing child custody or visitation rights”; and

4 (2) in paragraph (2), by striking “, or any agent
5 of such court; and” and inserting “or to issue an
6 order against a resident parent for child custody or
7 visitation rights, or any agent of such court;”.

8 (c) *REIMBURSEMENT FOR INFORMATION FROM FED-*
9 *ERAL AGENCIES.*—Section 453(e)(2) (42 U.S.C. 653(e)(2))
10 is amended in the 4th sentence by inserting “in an amount
11 which the Secretary determines to be reasonable payment
12 for the information exchange (which amount shall not in-
13 clude payment for the costs of obtaining, compiling, or
14 maintaining the information)” before the period.

15 (d) *REIMBURSEMENT FOR REPORTS BY STATE AGEN-*
16 *CIES.*—Section 453 (42 U.S.C. 653) is amended by adding
17 at the end the following new subsection:

18 “(g) *REIMBURSEMENT FOR REPORTS BY STATE AGEN-*
19 *CIES.*—The Secretary may reimburse Federal and State
20 agencies for the costs incurred by such entities in furnishing
21 information requested by the Secretary under this section
22 in an amount which the Secretary determines to be reason-
23 able payment for the information exchange (which amount
24 shall not include payment for the costs of obtaining, compil-
25 ing, or maintaining the information).”.

1 (e) *CONFORMING AMENDMENTS.*—

2 (1) *Sections 452(a)(9), 453(a), 453(b), 463(a),*
3 *463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a),*
4 *653(b), 663(a), 663(e), and 663(f)) are each amended*
5 *by inserting “Federal” before “Parent” each place*
6 *such term appears.*

7 (2) *Section 453 (42 U.S.C. 653) is amended in*
8 *the heading by adding “FEDERAL” before “PARENT”.*

9 (f) *NEW COMPONENTS.*—*Section 453 (42 U.S.C. 653),*
10 *as amended by subsection (d) of this section, is amended*
11 *by adding at the end the following new subsections:*

12 “(h) *FEDERAL CASE REGISTRY OF CHILD SUPPORT*
13 *ORDERS.*—

14 “(1) *IN GENERAL.*—*Not later than October 1,*
15 *1998, in order to assist States in administering pro-*
16 *grams under State plans approved under this part*
17 *and programs funded under part A, and for the other*
18 *purposes specified in this section, the Secretary shall*
19 *establish and maintain in the Federal Parent Locator*
20 *Service an automated registry (which shall be known*
21 *as the ‘Federal Case Registry of Child Support Or-*
22 *ders’), which shall contain abstracts of support orders*
23 *and other information described in paragraph (2)*
24 *with respect to each case in each State case registry*
25 *maintained pursuant to section 454A(e), as furnished*

1 *(and regularly updated), pursuant to section 454A(f),*
2 *by State agencies administering programs under this*
3 *part.*

4 “(2) *CASE INFORMATION.*—*The information re-*
5 *ferred to in paragraph (1) with respect to a case shall*
6 *be such information as the Secretary may specify in*
7 *regulations (including the names, social security*
8 *numbers or other uniform identification numbers,*
9 *and State case identification numbers) to identify the*
10 *individuals who owe or are owed support (or with re-*
11 *spect to or on behalf of whom support obligations are*
12 *sought to be established), and the State or States*
13 *which have the case.*

14 “(i) *NATIONAL DIRECTORY OF NEW HIRES.*—

15 “(1) *IN GENERAL.*—*In order to assist States in*
16 *administering programs under State plans approved*
17 *under this part and programs funded under part A,*
18 *and for the other purposes specified in this section,*
19 *the Secretary shall, not later than October 1, 1996, es-*
20 *tablish and maintain in the Federal Parent Locator*
21 *Service an automated directory to be known as the*
22 *National Directory of New Hires, which shall contain*
23 *the information supplied pursuant to section*
24 *453A(g)(2).*

1 “(2) *ENTRY OF DATA.*—*Information shall be en-*
2 *tered into the data base maintained by the National*
3 *Directory of New Hires within 2 business days of re-*
4 *ceipt pursuant to section 453A(g)(2).*

5 “(3) *ADMINISTRATION OF FEDERAL TAX LAWS.*—
6 *The Secretary of the Treasury shall have access to the*
7 *information in the National Directory of New Hires*
8 *for purposes of administering section 32 of the Inter-*
9 *nal Revenue Code of 1986, or the advance payment*
10 *of the earned income tax credit under section 3507 of*
11 *such Code, and verifying a claim with respect to em-*
12 *ployment in a tax return.*

13 “(4) *LIST OF MULTISTATE EMPLOYERS.*—*The*
14 *Secretary shall maintain within the National Direc-*
15 *tory of New Hires a list of multistate employers that*
16 *report information regarding newly hired employees*
17 *pursuant to section 453A(b)(1)(B), and the State*
18 *which each such employer has designated to receive*
19 *such information.*

20 “(j) *INFORMATION COMPARISONS AND OTHER DISCLO-*
21 *SURES.*—

22 “(1) *VERIFICATION BY SOCIAL SECURITY ADMIN-*
23 *ISTRATION.*—

24 “(A) *IN GENERAL.*—*The Secretary shall*
25 *transmit information on individuals and em-*

1 *employers maintained under this section to the So-*
2 *cial Security Administration to the extent nec-*
3 *essary for verification in accordance with sub-*
4 *paragraph (B).*

5 *“(B) VERIFICATION BY SSA.—The Social*
6 *Security Administration shall verify the accu-*
7 *racy of, correct, or supply to the extent possible,*
8 *and report to the Secretary, the following infor-*
9 *mation supplied by the Secretary pursuant to*
10 *subparagraph (A):*

11 *“(i) The name, social security number,*
12 *and birth date of each such individual.*

13 *“(ii) The employer identification num-*
14 *ber of each such employer.*

15 *“(2) INFORMATION COMPARISONS.—For the pur-*
16 *pose of locating individuals in a paternity establish-*
17 *ment case or a case involving the establishment,*
18 *modification, or enforcement of a support order, the*
19 *Secretary shall—*

20 *“(A) compare information in the National*
21 *Directory of New Hires against information in*
22 *the support case abstracts in the Federal Case*
23 *Registry of Child Support Orders not less often*
24 *than every 2 business days; and*

1 “(B) within 2 such days after such a com-
2 parison reveals a match with respect to an indi-
3 vidual, report the information to the State agen-
4 cy responsible for the case.

5 “(3) *INFORMATION COMPARISONS AND DISCLO-*
6 *SURES OF INFORMATION IN ALL REGISTRIES FOR*
7 *TITLE IV PROGRAM PURPOSES.—To the extent and*
8 *with the frequency that the Secretary determines to be*
9 *effective in assisting States to carry out their respon-*
10 *sibilities under programs operated under this part*
11 *and programs funded under part A, the Secretary*
12 *shall—*

13 “(A) compare the information in each com-
14 ponent of the Federal Parent Locator Service
15 maintained under this section against the infor-
16 mation in each other such component (other than
17 the comparison required by paragraph (2)), and
18 report instances in which such a comparison re-
19 veals a match with respect to an individual to
20 State agencies operating such programs; and

21 “(B) disclose information in such registries
22 to such State agencies.

23 “(4) *PROVISION OF NEW HIRE INFORMATION TO*
24 *THE SOCIAL SECURITY ADMINISTRATION.—The Na-*
25 *tional Directory of New Hires shall provide the Com-*

1 *missioner of Social Security with all information in*
2 *the National Directory, which shall be used to deter-*
3 *mine the accuracy of payments under the supple-*
4 *mental security income program under title XVI and*
5 *in connection with benefits under title II.*

6 “(5) *RESEARCH.*—*The Secretary may provide*
7 *access to information reported by employers pursuant*
8 *to section 453A(b) for research purposes found by the*
9 *Secretary to be likely to contribute to achieving the*
10 *purposes of part A or this part, but without personal*
11 *identifiers.*

12 “(k) *FEES.*—

13 “(1) *FOR SSA VERIFICATION.*—*The Secretary*
14 *shall reimburse the Commissioner of Social Security,*
15 *at a rate negotiated between the Secretary and the*
16 *Commissioner, for the costs incurred by the Commis-*
17 *sioner in performing the verification services de-*
18 *scribed in subsection (j).*

19 “(2) *FOR INFORMATION FROM STATE DIREC-*
20 *TORIES OF NEW HIRES.*—*The Secretary shall reim-*
21 *burse costs incurred by State directories of new hires*
22 *in furnishing information as required by subsection*
23 *(j)(3), at rates which the Secretary determines to be*
24 *reasonable (which rates shall not include payment for*

1 *the costs of obtaining, compiling, or maintaining such*
2 *information).*

3 “(3) *FOR INFORMATION FURNISHED TO STATE*
4 *AND FEDERAL AGENCIES.—A State or Federal agency*
5 *that receives information from the Secretary pursuant*
6 *to this section shall reimburse the Secretary for costs*
7 *incurred by the Secretary in furnishing the informa-*
8 *tion, at rates which the Secretary determines to be*
9 *reasonable (which rates shall include payment for the*
10 *costs of obtaining, verifying, maintaining, and com-*
11 *paring the information).*

12 “(l) *RESTRICTION ON DISCLOSURE AND USE.—Infor-*
13 *mation in the Federal Parent Locator Service, and infor-*
14 *mation resulting from comparisons using such information,*
15 *shall not be used or disclosed except as expressly provided*
16 *in this section, subject to section 6103 of the Internal Reve-*
17 *nue Code of 1986.*

18 “(m) *INFORMATION INTEGRITY AND SECURITY.—The*
19 *Secretary shall establish and implement safeguards with re-*
20 *spect to the entities established under this section designed*
21 *to—*

22 “(1) *ensure the accuracy and completeness of in-*
23 *formation in the Federal Parent Locator Service; and*

24 “(2) *restrict access to confidential information in*
25 *the Federal Parent Locator Service to authorized per-*

1 sons, and restrict use of such information to author-
2 ized purposes.

3 “(n) *FEDERAL GOVERNMENT REPORTING.*—Each de-
4 partment, agency, and instrumentality of the United States
5 shall on a quarterly basis report to the Federal Parent Lo-
6 cator Service the name and social security number of each
7 employee and the wages paid to the employee during the
8 previous quarter, except that such a report shall not be filed
9 with respect to an employee of a department, agency, or
10 instrumentality performing intelligence or counterintel-
11 ligence functions, if the head of such department, agency,
12 or instrumentality has determined that filing such a report
13 could endanger the safety of the employee or compromise
14 an ongoing investigation or intelligence mission.”.

15 (g) *CONFORMING AMENDMENTS.*—

16 (1) *TO PART D OF TITLE IV OF THE SOCIAL SE-*
17 *CURITY ACT.*—

18 (A) Section 454(8)(B) (42 U.S.C.
19 654(8)(B)) is amended to read as follows:

20 “(B) the Federal Parent Locator Service es-
21 tablished under section 453;”.

22 (B) Section 454(13) (42 U.S.C.654(13)) is
23 amended by inserting “and provide that infor-
24 mation requests by parents who are residents of
25 other States be treated with the same priority as

1 *requests by parents who are residents of the State*
2 *submitting the plan” before the semicolon.*

3 (2) *TO FEDERAL UNEMPLOYMENT TAX ACT.—*
4 *Section 3304(a)(16) of the Internal Revenue Code of*
5 *1986 is amended—*

6 (A) *by striking “Secretary of Health, Edu-*
7 *cation, and Welfare” each place such term ap-*
8 *pears and inserting “Secretary of Health and*
9 *Human Services”;*

10 (B) *in subparagraph (B), by striking “such*
11 *information” and all that follows and inserting*
12 *“information furnished under subparagraph (A)*
13 *or (B) is used only for the purposes authorized*
14 *under such subparagraph;”;*

15 (C) *by striking “and” at the end of sub-*
16 *paragraph (A);*

17 (D) *by redesignating subparagraph (B) as*
18 *subparagraph (C); and*

19 (E) *by inserting after subparagraph (A) the*
20 *following new subparagraph:*

21 *“(B) wage and unemployment compensa-*
22 *tion information contained in the records of such*
23 *agency shall be furnished to the Secretary of*
24 *Health and Human Services (in accordance with*
25 *regulations promulgated by such Secretary) as*

1 *necessary for the purposes of the National Direc-*
2 *tory of New Hires established under section*
3 *453(i) of the Social Security Act, and”.*

4 (3) *TO STATE GRANT PROGRAM UNDER TITLE III*
5 *OF THE SOCIAL SECURITY ACT.—Subsection (h) of sec-*
6 *tion 303 (42 U.S.C. 503) is amended to read as fol-*
7 *lows:*

8 “(h)(1) *The State agency charged with the administra-*
9 *tion of the State law shall, on a reimbursable basis—*

10 “(A) *disclose quarterly, to the Secretary of*
11 *Health and Human Services wage and claim infor-*
12 *mation, as required pursuant to section 453(i)(1),*
13 *contained in the records of such agency;*

14 “(B) *ensure that information provided pursuant*
15 *to subparagraph (A) meets such standards relating to*
16 *correctness and verification as the Secretary of Health*
17 *and Human Services, with the concurrence of the Sec-*
18 *retary of Labor, may find necessary; and*

19 “(C) *establish such safeguards as the Secretary of*
20 *Labor determines are necessary to insure that infor-*
21 *mation disclosed under subparagraph (A) is used only*
22 *for purposes of section 453(i)(1) in carrying out the*
23 *child support enforcement program under title IV.*

24 “(2) *Whenever the Secretary of Labor, after reasonable*
25 *notice and opportunity for hearing to the State agency*

1 *charged with the administration of the State law, finds that*
2 *there is a failure to comply substantially with the require-*
3 *ments of paragraph (1), the Secretary of Labor shall notify*
4 *such State agency that further payments will not be made*
5 *to the State until the Secretary of Labor is satisfied that*
6 *there is no longer any such failure. Until the Secretary of*
7 *Labor is so satisfied, the Secretary shall make no future*
8 *certification to the Secretary of the Treasury with respect*
9 *to the State.*

10 “(3) For purposes of this subsection—

11 “(A) the term ‘wage information’ means infor-
12 mation regarding wages paid to an individual, the
13 social security account number of such individual,
14 and the name, address, State, and the Federal em-
15 ployer identification number of the employer paying
16 such wages to such individual; and

17 “(B) the term ‘claim information’ means infor-
18 mation regarding whether an individual is receiving,
19 has received, or has made application for, unemploy-
20 ment compensation, the amount of any such com-
21 pensation being received (or to be received by such in-
22 dividual), and the individual’s current (or most re-
23 cent) home address.”.

1 (4) *DISCLOSURE OF CERTAIN INFORMATION TO*
2 *AGENTS OF CHILD SUPPORT ENFORCEMENT AGEN-*
3 *CIES.—*

4 (A) *IN GENERAL.—Paragraph (6) of section*
5 *6103(l) of the Internal Revenue Code of 1986 (re-*
6 *lating to disclosure of return information to Fed-*
7 *eral, State, and local child support enforcement*
8 *agencies) is amended by redesignating subpara-*
9 *graph (B) as subparagraph (C) and by inserting*
10 *after subparagraph (A) the following new sub-*
11 *paragraph:*

12 “(B) *DISCLOSURE TO CERTAIN AGENTS.—*
13 *The address and social security account number*
14 *(or numbers) of an individual with respect to*
15 *any individual with respect to whom child sup-*
16 *port obligations are sought to be established or*
17 *enforced may be disclosed by any child support*
18 *enforcement agency to any agent of such agency*
19 *which is under contract with such agency to*
20 *carry out the purposes described in subpara-*
21 *graph (C).”*

22 (B) *CONFORMING AMENDMENTS.—*

23 (i) *Paragraph (3) of section 6103(a) of*
24 *such Code is amended by striking “(l)(12)”*

1 and inserting “paragraph (6) or (12) of
2 subsection (l)”.

3 (ii) Subparagraph (C) of section
4 6103(l)(6) of such Code, as redesignated by
5 subsection (a), is amended to read as fol-
6 lows:

7 “(C) *RESTRICTION ON DISCLOSURE.*—Infor-
8 mation may be disclosed under this paragraph
9 only for purposes of, and to the extent necessary
10 in, establishing and collecting child support obli-
11 gations from, and locating, individuals owing
12 such obligations.”

13 (iii) The material following subpara-
14 graph (F) of section 6103(p)(4) of such
15 Code is amended by striking “subsection
16 (l)(12)(B)” and inserting “paragraph
17 (6)(A) or (12)(B) of subsection (l)”.

18 **SEC. 12317. COLLECTION AND USE OF SOCIAL SECURITY**
19 **NUMBERS FOR USE IN CHILD SUPPORT EN-**
20 **FORCEMENT.**

21 (a) *STATE LAW REQUIREMENT.*—Section 466(a) (42
22 *U.S.C. 666(a)*), as amended by section 12315 of this Act,
23 is amended by adding at the end the following new para-
24 graph:

1 “(13) *RECORDING OF SOCIAL SECURITY NUM-*
2 *BERS IN CERTAIN FAMILY MATTERS.*—*Procedures re-*
3 *quiring that the social security number of—*

4 “(A) *any applicant for a professional li-*
5 *cence, commercial driver’s license, occupational*
6 *license, or marriage license be recorded on the*
7 *application;*

8 “(B) *any individual who is subject to a di-*
9 *vorce decree, support order, or paternity deter-*
10 *mination or acknowledgment be placed in the*
11 *records relating to the matter; and*

12 “(C) *any individual who has died be placed*
13 *in the records relating to the death and be re-*
14 *corded on the death certificate.*

15 *For purposes of subparagraph (A), if a State allows*
16 *the use of a number other than the social security*
17 *number, the State shall so advise any applicants.”.*

18 (b) *CONFORMING AMENDMENTS.*—*Section*
19 *205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by sec-*
20 *tion 321(a)(9) of the Social Security Independence and*
21 *Program Improvements Act of 1994, is amended—*

22 (1) *in clause (i), by striking “may require” and*
23 *inserting “shall require”;*

24 (2) *in clause (ii), by inserting after the 1st sen-*
25 *tence the following: “In the administration of any*

1 *law involving the issuance of a marriage certificate or*
2 *license, each State shall require each party named in*
3 *the certificate or license to furnish to the State (or po-*
4 *litical subdivision thereof), or any State agency hav-*
5 *ing administrative responsibility for the law involved,*
6 *the social security number of the party.”;*

7 (3) *in clause (ii), by inserting “or marriage cer-*
8 *tificate” after “Such numbers shall not be recorded on*
9 *the birth certificate”.*

10 (4) *in clause (vi), by striking “may” and insert-*
11 *ing “shall”; and*

12 (5) *by adding at the end the following new*
13 *clauses:*

14 “(x) *An agency of a State (or a politi-*
15 *cal subdivision thereof) charged with the ad-*
16 *ministration of any law concerning the is-*
17 *suance or renewal of a license, certificate,*
18 *permit, or other authorization to engage in*
19 *a profession, an occupation, or a commer-*
20 *cial activity shall require all applicants for*
21 *issuance or renewal of the license, certifi-*
22 *cate, permit, or other authorization to pro-*
23 *vide the applicant’s social security number*
24 *to the agency for the purpose of administer-*
25 *ing such laws, and for the purpose of re-*

1 *sponding to requests for information from*
 2 *an agency operating pursuant to part D of*
 3 *title IV.*

4 *“(xi) All divorce decrees, support or-*
 5 *ders, and paternity determinations issued,*
 6 *and all paternity acknowledgments made,*
 7 *in each State shall include the social secu-*
 8 *rity number of each party to the decree,*
 9 *order, determination, or acknowledgement*
 10 *in the records relating to the matter, for the*
 11 *purpose of responding to requests for infor-*
 12 *mation from an agency operating pursuant*
 13 *to part D of title IV.”.*

14 **CHAPTER 3—STREAMLINING AND**
 15 **UNIFORMITY OF PROCEDURES**

16 **SEC. 12321. ADOPTION OF UNIFORM STATE LAWS.**

17 *Section 466 (42 U.S.C. 666) is amended by adding*
 18 *at the end the following new subsection:*

19 *“(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—*

20 *“(1) ENACTMENT AND USE.—In order to satisfy*
 21 *section 454(20)(A), on or after January 1, 1998, each*
 22 *State must have in effect the Uniform Interstate Fam-*
 23 *ily Support Act, as approved by the American Bar*
 24 *Association on February 9, 1993, together with any*
 25 *amendments officially adopted before January 1,*

1 1998 by the National Conference of Commissioners on
2 Uniform State Laws.

3 “(2) *EMPLOYERS TO FOLLOW PROCEDURAL*
4 *RULES OF STATE WHERE EMPLOYEE WORKS.*—The
5 State law enacted pursuant to paragraph (1) shall
6 provide that an employer that receives an income
7 withholding order or notice pursuant to section 501
8 of the Uniform Interstate Family Support Act follow
9 the procedural rules that apply with respect to such
10 order or notice under the laws of the State in which
11 the obligor works.

12 **SEC. 12322. IMPROVEMENTS TO FULL FAITH AND CREDIT**
13 **FOR CHILD SUPPORT ORDERS.**

14 Section 1738B of title 28, United States Code, is
15 amended—

16 (1) in subsection (a)(2), by striking “subsection
17 (e)” and inserting “subsections (e), (f), and (i)”;

18 (2) in subsection (b), by inserting after the 2nd
19 undesignated paragraph the following:

20 “‘child’s home State’ means the State in which
21 a child lived with a parent or a person acting as par-
22 ent for at least 6 consecutive months immediately pre-
23 ceding the time of filing of a petition or comparable
24 pleading for support and, if a child is less than 6
25 months old, the State in which the child lived from

1 *birth with any of them. A period of temporary ab-*
2 *sence of any of them is counted as part of the 6-month*
3 *period.”;*

4 (3) *in subsection (c), by inserting “by a court of*
5 *a State” before “is made”;*

6 (4) *in subsection (c)(1), by inserting “and sub-*
7 *sections (e), (f), and (g)” after “located”;*

8 (5) *in subsection (d)—*

9 (A) *by inserting “individual” before “con-*
10 *testant”;* and

11 (B) *by striking “subsection (e)” and insert-*
12 *ing “subsections (e) and (f)”;*

13 (6) *in subsection (e), by striking “make a modi-*
14 *fication of a child support order with respect to a*
15 *child that is made” and inserting “modify a child*
16 *support order issued”;*

17 (7) *in subsection (e)(1), by inserting “pursuant*
18 *to subsection (i)” before the semicolon;*

19 (8) *in subsection (e)(2)—*

20 (A) *by inserting “individual” before “con-*
21 *testant” each place such term appears;* and

22 (B) *by striking “to that court’s making the*
23 *modification and assuming” and inserting “with*
24 *the State of continuing, exclusive jurisdiction for*

1 *a court of another State to modify the order and*
2 *assume”;*

3 *(9) by redesignating subsections (f) and (g) as*
4 *subsections (g) and (h), respectively;*

5 *(10) by inserting after subsection (e) the follow-*
6 *ing new subsection:*

7 *“(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If*
8 *1 or more child support orders have been issued in this or*
9 *another State with regard to an obligor and a child, a court*
10 *shall apply the following rules in determining which order*
11 *to recognize for purposes of continuing, exclusive jurisdic-*
12 *tion and enforcement:*

13 *“(1) If only 1 court has issued a child support*
14 *order, the order of that court must be recognized.*

15 *“(2) If 2 or more courts have issued child sup-*
16 *port orders for the same obligor and child, and only*
17 *1 of the courts would have continuing, exclusive jurisdic-*
18 *tion under this section, the order of that court*
19 *must be recognized.*

20 *“(3) If 2 or more courts have issued child sup-*
21 *port orders for the same obligor and child, and more*
22 *than 1 of the courts would have continuing, exclusive*
23 *jurisdiction under this section, an order issued by a*
24 *court in the current home State of the child must be*
25 *recognized, but if an order has not been issued in the*

1 *current home State of the child, the order most re-*
2 *cently issued must be recognized.*

3 *“(4) If 2 or more courts have issued child sup-*
4 *port orders for the same obligor and child, and none*
5 *of the courts would have continuing, exclusive juris-*
6 *isdiction under this section, a court may issue a child*
7 *support order, which must be recognized.*

8 *“(5) The court that has issued an order recog-*
9 *nized under this subsection is the court having con-*
10 *tinuing, exclusive jurisdiction.”;*

11 *(11) in subsection (g) (as so redesignated)—*

12 *(A) by striking “PRIOR” and inserting*
13 *“MODIFIED”; and*

14 *(B) by striking “subsection (e)” and insert-*
15 *ing “subsections (e) and (f)”;*

16 *(12) in subsection (h) (as so redesignated)—*

17 *(A) in paragraph (2), by inserting “includ-*
18 *ing the duration of current payments and other*
19 *obligations of support” before the comma; and*

20 *(B) in paragraph (3), by inserting “arrears*
21 *under” after “enforce”; and*

22 *(13) by adding at the end the following new sub-*
23 *section:*

24 *“(i) REGISTRATION FOR MODIFICATION.—If there is*
25 *no individual contestant or child residing in the issuing*

1 *State, the party or support enforcement agency seeking to*
2 *modify, or to modify and enforce, a child support order is-*
3 *sued in another State shall register that order in a State*
4 *with jurisdiction over the nonmovant for the purpose of*
5 *modification.”.*

6 **SEC. 12323. ADMINISTRATIVE ENFORCEMENT IN INTER-**
7 **STATE CASES.**

8 *Section 466(a) (42 U.S.C. 666(a)), as amended by sec-*
9 *tions 12315 and 12317(a) of this Act, is amended by adding*
10 *at the end the following new paragraph:*

11 *“(14) ADMINISTRATIVE ENFORCEMENT IN INTER-*
12 *STATE CASES.—Procedures under which—*

13 *“(A)(i) the State shall respond within 5*
14 *business days to a request made by another State*
15 *to enforce a support order; and*

16 *“(ii) the term ‘business day’ means a day*
17 *on which State offices are open for regular busi-*
18 *ness;*

19 *“(B) the State may, by electronic or other*
20 *means, transmit to another State a request for*
21 *assistance in a case involving the enforcement of*
22 *a support order, which request—*

23 *“(i) shall include such information as*
24 *will enable the State to which the request is*
25 *transmitted to compare the information*

1 *about the case to the information in the*
2 *data bases of the State; and*

3 *“(ii) shall constitute a certification by*
4 *the requesting State—*

5 *“(I) of the amount of support*
6 *under the order the payment of which*
7 *is in arrears; and*

8 *“(II) that the requesting State has*
9 *complied with all procedural due proc-*
10 *ess requirements applicable to the case;*

11 *“(C) if the State provides assistance to an-*
12 *other State pursuant to this paragraph with re-*
13 *spect to a case, neither State shall consider the*
14 *case to be transferred to the caseload of such*
15 *other State; and*

16 *“(D) the State shall maintain records of—*

17 *“(i) the number of such requests for as-*
18 *sistance received by the State;*

19 *“(ii) the number of cases for which the*
20 *State collected support in response to such*
21 *a request; and*

22 *“(iii) the amount of such collected sup-*
23 *port.”.*

1 **SEC. 12324. USE OF FORMS IN INTERSTATE ENFORCEMENT.**

2 (a) *PROMULGATION.*—Section 452(a) (42 U.S.C.

3 652(a)) is amended—

4 (1) by striking “and” at the end of paragraph

5 (9);

6 (2) by striking the period at the end of para-

7 graph (10) and inserting “; and”; and

8 (3) by adding at the end the following new para-

9 graph:

10 “(11) not later than June 30, 1996, after con-

11 sulting with the State directors of programs under

12 this part, promulgate forms to be used by States in

13 interstate cases for—

14 “(A) collection of child support through in-

15 come withholding;

16 “(B) imposition of liens; and

17 “(C) administrative subpoenas.”

18 (b) *USE BY STATES.*—Section 454(9) (42 U.S.C.

19 654(9)) is amended—

20 (1) by striking “and” at the end of subpara-

21 graph (C);

22 (2) by inserting “and” at the end of subpara-

23 graph (D); and

24 (3) by adding at the end the following new sub-

25 paragraph:

1 “(E) no later than October 1, 1996, in
2 using the forms promulgated pursuant to section
3 452(a)(11) for income withholding, imposition of
4 liens, and issuance of administrative subpoenas
5 in interstate child support cases;”.

6 **SEC. 12325. STATE LAWS PROVIDING EXPEDITED PROCE-**
7 **DURES.**

8 (a) *STATE LAW REQUIREMENTS.*—Section 466 (42
9 U.S.C. 666), as amended by section 12314 of this Act, is
10 amended—

11 (1) in subsection (a)(2), by striking the 1st sen-
12 tence and inserting the following: “Expedited admin-
13 istrative and judicial procedures (including the proce-
14 dures specified in subsection (c)) for establishing pa-
15 ternity and for establishing, modifying, and enforcing
16 support obligations.”; and

17 (2) by inserting after subsection (b) the following
18 new subsection:

19 “(c) *EXPEDITED PROCEDURES.*—The procedures spec-
20 ified in this subsection are the following:

21 “(1) *ADMINISTRATIVE ACTION BY STATE AGEN-*
22 *CY.*—Procedures which give the State agency the au-
23 thority to take the following actions relating to estab-
24 lishment or enforcement of support orders, without the
25 necessity of obtaining an order from any other judi-

1 *cial or administrative tribunal, and to recognize and*
2 *enforce the authority of State agencies of other States)*
3 *to take the following actions:*

4 *“(A) GENETIC TESTING.—To order genetic*
5 *testing for the purpose of paternity establishment*
6 *as provided in section 466(a)(5).*

7 *“(B) FINANCIAL OR OTHER INFORMATION.—*
8 *To subpoena any financial or other information*
9 *needed to establish, modify, or enforce a support*
10 *order, and to impose penalties for failure to re-*
11 *spond to such a subpoena.*

12 *“(C) RESPONSE TO STATE AGENCY RE-*
13 *QUEST.—To require all entities in the State (in-*
14 *cluding for-profit, nonprofit, and governmental*
15 *employers) to provide promptly, in response to a*
16 *request by the State agency of that or any other*
17 *State administering a program under this part,*
18 *information on the employment, compensation,*
19 *and benefits of any individual employed by such*
20 *entity as an employee or contractor, and to sanc-*
21 *tion failure to respond to any such request.*

22 *“(D) ACCESS TO CERTAIN RECORDS.—To*
23 *obtain access, subject to safeguards on privacy*
24 *and information security, to the following*

1 *records (including automated access, in the case*
2 *of records maintained in automated data bases):*

3 “(i) *Records of other State and local*
4 *government agencies, including—*

5 “(I) *vital statistics (including*
6 *records of marriage, birth, and di-*
7 *vorce);*

8 “(II) *State and local tax and rev-*
9 *enue records (including information on*
10 *residence address, employer, income*
11 *and assets);*

12 “(III) *records concerning real and*
13 *titled personal property;*

14 “(IV) *records of occupational and*
15 *professional licenses, and records con-*
16 *cerning the ownership and control of*
17 *corporations, partnerships, and other*
18 *business entities;*

19 “(V) *employment security records;*

20 “(VI) *records of agencies admin-*
21 *istering public assistance programs;*

22 “(VII) *records of the motor vehicle*
23 *department; and*

24 “(VIII) *corrections records.*

1 “(ii) *Certain records held by private*
2 *entities, including—*

3 “(I) *customer records of public*
4 *utilities and cable television compa-*
5 *nies; and*

6 “(II) *information (including in-*
7 *formation on assets and liabilities) on*
8 *individuals who owe or are owed sup-*
9 *port (or against or with respect to*
10 *whom a support obligation is sought)*
11 *held by financial institutions (subject*
12 *to limitations on liability of such enti-*
13 *ties arising from affording such ac-*
14 *cess), as provided pursuant to agree-*
15 *ments described in subsection (a)(18).*

16 “(E) *CHANGE IN PAYEE.—In cases in which*
17 *support is subject to an assignment in order to*
18 *comply with a requirement imposed pursuant to*
19 *part A or section 1912, or to a requirement to*
20 *pay through the State disbursement unit estab-*
21 *lished pursuant to section 454B, upon providing*
22 *notice to obligor and obligee, to direct the obligor*
23 *or other payor to change the payee to the appro-*
24 *priate government entity.*

1 “(F) *INCOME WITHHOLDING.*—*To order in-*
2 *come withholding in accordance with subsections*
3 *(a)(1) and (b) of section 466.*

4 “(G) *SECURING ASSETS.*—*In cases in which*
5 *there is a support arrearage, to secure assets to*
6 *satisfy the arrearage by—*

7 “(i) *intercepting or seizing periodic or*
8 *lump-sum payments from—*

9 “(I) *a State or local agency, in-*
10 *cluding unemployment compensation,*
11 *workers’ compensation, and other bene-*
12 *fits; and*

13 “(II) *judgments, settlements, and*
14 *lotteries;*

15 “(ii) *attaching and seizing assets of the*
16 *obligor held in financial institutions;*

17 “(iii) *attaching public and private re-*
18 *tirement funds; and*

19 “(iv) *imposing liens in accordance*
20 *with subsection (a)(4) and, in appropriate*
21 *cases, to force sale of property and distribu-*
22 *tion of proceeds.*

23 “(H) *INCREASE MONTHLY PAYMENTS.*—*For*
24 *the purpose of securing overdue support, to in-*
25 *crease the amount of monthly support payments*

1 to include amounts for arrearages, subject to
2 such conditions or limitations as the State may
3 provide.

4 Such procedures shall be subject to due process safe-
5 guards, including (as appropriate) requirements for
6 notice, opportunity to contest the action, and oppor-
7 tunity for an appeal on the record to an independent
8 administrative or judicial tribunal.

9 “(2) *SUBSTANTIVE AND PROCEDURAL RULES.*—
10 The expedited procedures required under subsection
11 (a)(2) shall include the following rules and authority,
12 applicable with respect to all proceedings to establish
13 paternity or to establish, modify, or enforce support
14 orders:

15 “(A) *LOCATOR INFORMATION; PRESUMP-*
16 *TIONS CONCERNING NOTICE.*—Procedures under
17 which—

18 “(i) each party to any paternity or
19 child support proceeding is required (subject
20 to privacy safeguards) to file with the tribu-
21 nal and the State case registry upon entry
22 of an order, and to update as appropriate,
23 information on location and identity of the
24 party, including social security number,
25 residential and mailing addresses, telephone

1 *number, driver’s license number, and name,*
2 *address, and name and telephone number of*
3 *employer; and*

4 “(i) *in any subsequent child support*
5 *enforcement action between the parties,*
6 *upon sufficient showing that diligent effort*
7 *has been made to ascertain the location of*
8 *such a party, the tribunal may deem State*
9 *due process requirements for notice and*
10 *service of process to be met with respect to*
11 *the party, upon delivery of written notice to*
12 *the most recent residential or employer ad-*
13 *dress filed with the tribunal pursuant to*
14 *clause (i).*

15 “(B) *STATEWIDE JURISDICTION.—Proce-*
16 *dures under which—*

17 “(i) *the State agency and any admin-*
18 *istrative or judicial tribunal with authority*
19 *to hear child support and paternity cases*
20 *exerts statewide jurisdiction over the par-*
21 *ties; and*

22 “(ii) *in a State in which orders are is-*
23 *sued by courts or administrative tribunals,*
24 *a case may be transferred between local ju-*
25 *risdictions in the State without need for*

1 *any additional filing by the petitioner, or*
2 *service of process upon the respondent, to re-*
3 *tain jurisdiction over the parties.*

4 “(3) *COORDINATION WITH ERISA.*—Notwith-
5 *standing subsection (d) of section 514 of the Employee*
6 *Retirement Income Security Act of 1974 (relating to*
7 *effect on other laws), nothing in this subsection shall*
8 *be construed to alter, amend, modify, invalidate, im-*
9 *pair, or supersede subsections (a), (b), and (c) of such*
10 *section 514 as it applies with respect to any proce-*
11 *dure referred to in paragraph (1) and any expedited*
12 *procedure referred to in paragraph (2), except to the*
13 *extent that such procedure would be consistent with*
14 *the requirements of section 206(d)(3) of such Act (re-*
15 *lating to qualified domestic relations orders) or the*
16 *requirements of section 609(a) of such Act (relating to*
17 *qualified medical child support orders) if the reference*
18 *in such section 206(d)(3) to a domestic relations order*
19 *and the reference in such section 609(a) to a medical*
20 *child support order were a reference to a support*
21 *order referred to in paragraphs (1) and (2) relating*
22 *to the same matters, respectively.”.*

23 (b) *AUTOMATION OF STATE AGENCY FUNCTIONS.*—
24 *Section 454A, as added by section 12344(a)(2) and as*

1 “(B) *PROCEDURES CONCERNING GENETIC*
2 *TESTING.*—

3 “(i) *GENETIC TESTING REQUIRED IN*
4 *CERTAIN CONTESTED CASES.*—*Procedures*
5 *under which the State is required, in a con-*
6 *tested paternity case (unless otherwise*
7 *barred by State law) to require the child*
8 *and all other parties (other than individ-*
9 *uals found under section 454(29) to have*
10 *good cause for refusing to cooperate) to sub-*
11 *mit to genetic tests upon the request of any*
12 *such party, if the request is supported by a*
13 *sworn statement by the party—*

14 “(I) *alleging paternity, and set-*
15 *ting forth facts establishing a reason-*
16 *able possibility of the requisite sexual*
17 *contact between the parties; or*

18 “(II) *denying paternity, and set-*
19 *ting forth facts establishing a reason-*
20 *able possibility of the nonexistence of*
21 *sexual contact between the parties.*

22 “(ii) *OTHER REQUIREMENTS.*—*Proce-*
23 *dures which require the State agency, in*
24 *any case in which the agency orders genetic*
25 *testing—*

1 “(I) to pay costs of such tests, sub-
2 ject to recoupment (if the State so
3 elects) from the alleged father if pater-
4 nity is established; and

5 “(II) to obtain additional testing
6 in any case if an original test result is
7 contested, upon request and advance
8 payment by the contestant.

9 “(C) VOLUNTARY PATERNITY ACKNOWLEDG-
10 MENT.—

11 “(i) SIMPLE CIVIL PROCESS.—Proce-
12 dures for a simple civil process for volun-
13 tarily acknowledging paternity under which
14 the State must provide that, before a mother
15 and a putative father can sign an acknowl-
16 edgment of paternity, the mother and the
17 putative father must be given notice, orally
18 and in writing, of the alternatives to, the
19 legal consequences of, and the rights (in-
20 cluding, if 1 parent is a minor, any rights
21 afforded due to minority status) and re-
22 sponsibilities that arise from, signing the
23 acknowledgment.

24 “(ii) HOSPITAL-BASED PROGRAM.—
25 Such procedures must include a hospital-

1 *based program for the voluntary acknowl-*
2 *edgment of paternity focusing on the period*
3 *immediately before or after the birth of a*
4 *child, subject to such good cause exceptions,*
5 *taking into account the best interests of the*
6 *child, as the State may establish.*

7 “(iii) *PATERNITY ESTABLISHMENT*
8 *SERVICES.—*

9 “(I) *STATE-OFFERED SERVICES.—*

10 *Such procedures must require the State*
11 *agency responsible for maintaining*
12 *birth records to offer voluntary pater-*
13 *nity establishment services.*

14 “(II) *REGULATIONS.—*

15 “(aa) *SERVICES OFFERED BY*
16 *HOSPITALS AND BIRTH RECORD*
17 *AGENCIES.—The Secretary shall*
18 *prescribe regulations governing*
19 *voluntary paternity establishment*
20 *services offered by hospitals and*
21 *birth record agencies.*

22 “(bb) *SERVICES OFFERED BY*
23 *OTHER ENTITIES.—The Secretary*
24 *shall prescribe regulations specify-*
25 *ing the types of other entities that*

1 *may offer voluntary paternity es-*
2 *tablishment services, and govern-*
3 *ing the provision of such services,*
4 *which shall include a requirement*
5 *that such an entity must use the*
6 *same notice provisions used by,*
7 *use the same materials used by,*
8 *provide the personnel providing*
9 *such services with the same train-*
10 *ing provided by, and evaluate the*
11 *provision of such services in the*
12 *same manner as the provision of*
13 *such services is evaluated by, vol-*
14 *untary paternity establishment*
15 *programs of hospitals and birth*
16 *record agencies.*

17 *“(iv) USE OF PATERNITY ACKNOWL-*
18 *EDGMENT AFFIDAVIT.—Such procedures*
19 *must require the State to develop and use*
20 *an affidavit for the voluntary acknowledg-*
21 *ment of paternity which includes the mini-*
22 *imum requirements of the affidavit developed*
23 *by the Secretary under section 452(a)(7) for*
24 *the voluntary acknowledgment of paternity,*
25 *and to give full faith and credit to such an*

1 *affidavit signed in any other State accord-*
2 *ing to its procedures.*

3 “(D) *STATUS OF SIGNED PATERNITY AC-*
4 *KNOWLEDGMENT.—*

5 “(i) *INCLUSION IN BIRTH RECORDS.—*
6 *Procedures under which the name of the fa-*
7 *ther shall be included on the record of birth*
8 *of the child only if—*

9 “(I) *the father and mother have*
10 *signed a voluntary acknowledgment of*
11 *paternity; or*

12 “(II) *a court or an administrative*
13 *agency of competent jurisdiction has*
14 *issued an adjudication of paternity.*

15 *Nothing in this clause shall preclude a*
16 *State agency from obtaining an admission*
17 *of paternity from the father for submission*
18 *in a judicial or administrative proceeding,*
19 *or prohibit the issuance of an order in a ju-*
20 *dicial or administrative proceeding which*
21 *bases a legal finding of paternity on an ad-*
22 *mission of paternity by the father and any*
23 *other additional showing required by State*
24 *law.*

1 “(ii) *LEGAL FINDING OF PATERNITY.*—
2 *Procedures under which a signed voluntary*
3 *acknowledgment of paternity is considered a*
4 *legal finding of paternity, subject to the*
5 *right of any signatory to rescind the ac-*
6 *knowledgment within the earlier of—*

7 “(I) 60 days; or

8 “(II) *the date of an administra-*
9 *tive or judicial proceeding relating to*
10 *the child (including a proceeding to es-*
11 *tablish a support order) in which the*
12 *signatory is a party.*

13 “(iii) *CONTEST.*—*Procedures under*
14 *which, after the 60-day period referred to in*
15 *clause (ii), a signed voluntary acknowledg-*
16 *ment of paternity may be challenged in*
17 *court only on the basis of fraud, duress, or*
18 *material mistake of fact, with the burden of*
19 *proof upon the challenger, and under which*
20 *the legal responsibilities (including child*
21 *support obligations) of any signatory aris-*
22 *ing from the acknowledgment may not be*
23 *suspended during the challenge, except for*
24 *good cause shown.*

1 “(E) *BAR ON ACKNOWLEDGMENT RATIFICA-*
2 *TION PROCEEDINGS.—Procedures under which*
3 *judicial or administrative proceedings are not*
4 *required or permitted to ratify an unchallenged*
5 *acknowledgment of paternity.*

6 “(F) *ADMISSIBILITY OF GENETIC TESTING*
7 *RESULTS.—Procedures—*

8 “(i) *requiring the admission into evi-*
9 *dence, for purposes of establishing pater-*
10 *nity, of the results of any genetic test that*
11 *is—*

12 “(I) *of a type generally acknowl-*
13 *edged as reliable by accreditation bod-*
14 *ies designated by the Secretary; and*

15 “(II) *performed by a laboratory*
16 *approved by such an accreditation*
17 *body;*

18 “(ii) *requiring an objection to genetic*
19 *testing results to be made in writing not*
20 *later than a specified number of days before*
21 *any hearing at which the results may be in-*
22 *troduced into evidence (or, at State option,*
23 *not later than a specified number of days*
24 *after receipt of the results); and*

1 “(iii) making the test results admissi-
2 ble as evidence of paternity without the need
3 for foundation testimony or other proof of
4 authenticity or accuracy, unless objection is
5 made.

6 “(G) PRESUMPTION OF PATERNITY IN CER-
7 TAIN CASES.—Procedures which create a rebutta-
8 ble or, at the option of the State, conclusive pre-
9 sumption of paternity upon genetic testing re-
10 sults indicating a threshold probability that the
11 alleged father is the father of the child.

12 “(H) DEFAULT ORDERS.—Procedures re-
13 quiring a default order to be entered in a pater-
14 nity case upon a showing of service of process on
15 the defendant and any additional showing re-
16 quired by State law.

17 “(I) NO RIGHT TO JURY TRIAL.—Procedures
18 providing that the parties to an action to estab-
19 lish paternity are not entitled to a trial by jury.

20 “(J) TEMPORARY SUPPORT ORDER BASED
21 ON PROBABLE PATERNITY IN CONTESTED
22 CASES.—Procedures which require that a tem-
23 porary order be issued, upon motion by a party,
24 requiring the provision of child support pending
25 an administrative or judicial determination of

1 *parentage, if there is clear and convincing evi-*
2 *dence of paternity (on the basis of genetic tests*
3 *or other evidence).*

4 “(K) *PROOF OF CERTAIN SUPPORT AND PA-*
5 *TERNITY ESTABLISHMENT COSTS.—Procedures*
6 *under which bills for pregnancy, childbirth, and*
7 *genetic testing are admissible as evidence with-*
8 *out requiring third-party foundation testimony,*
9 *and shall constitute prima facie evidence of*
10 *amounts incurred for such services or for testing*
11 *on behalf of the child.*

12 “(L) *STANDING OF PUTATIVE FATHERS.—*
13 *Procedures ensuring that the putative father has*
14 *a reasonable opportunity to initiate a paternity*
15 *action.*

16 “(M) *FILING OF ACKNOWLEDGMENTS AND*
17 *ADJUDICATIONS IN STATE REGISTRY OF BIRTH*
18 *RECORDS.—Procedures under which voluntary*
19 *acknowledgments and adjudications of paternity*
20 *by judicial or administrative processes are filed*
21 *with the State registry of birth records for com-*
22 *parison with information in the State case reg-*
23 *istry.”.*

24 (b) *NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDA-*
25 *VIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended*

1 by inserting “, and develop an affidavit to be used for the
2 voluntary acknowledgment of paternity which shall include
3 the social security number of each parent and, after con-
4 sultation with the States, other common elements as deter-
5 mined by such designee” before the semicolon.

6 (c) *CONFORMING AMENDMENT.*—Section 468 (42
7 U.S.C. 668) is amended by striking “a simple civil process
8 for voluntarily acknowledging paternity and”.

9 **SEC. 12332. OUTREACH FOR VOLUNTARY PATERNITY ES-**
10 **TABLISHMENT.**

11 Section 454(23) (42 U.S.C. 654(23)) is amended by
12 inserting “and will publicize the availability and encourage
13 the use of procedures for voluntary establishment of pater-
14 nity and child support by means the State deems appro-
15 priate” before the semicolon.

16 **SEC. 12333. COOPERATION BY APPLICANTS FOR AND RE-**
17 **CIPIENTS OF TEMPORARY FAMILY ASSIST-**
18 **ANCE.**

19 Section 454 (42 U.S.C. 654), as amended by sections
20 12301(b), 12303(a), 12312(a), and 12313(a) of this Act, is
21 amended—

22 (1) by striking “and” at the end of paragraph
23 (27);

24 (2) by striking the period at the end of para-
25 graph (28) and inserting “; and”; and

1 (3) by inserting after paragraph (28) the follow-
2 ing new paragraph:

3 “(29) provide that the State agency responsible
4 for administering the State plan—

5 “(A) shall make the determination (and re-
6 determination at appropriate intervals) as to
7 whether an individual who has applied for or is
8 receiving assistance under the State program
9 funded under part A or the State program under
10 title XXI is cooperating in good faith with the
11 State in establishing the paternity of, or in es-
12 tablishing, modifying, or enforcing a support
13 order for, any child of the individual by provid-
14 ing the State agency with the name of, and such
15 other information as the State agency may re-
16 quire with respect to, the noncustodial parent of
17 the child, subject to such good cause exceptions,
18 taking into account the best interests of the child,
19 as the State may establish through the State
20 agency, or at the option of the State, through the
21 State agencies administering the State programs
22 funded under part A and title XXI;

23 “(B) shall require the individual to supply
24 additional necessary information and appear at
25 interviews, hearings, and legal proceedings;

1 “(C) shall require the individual and the
2 child to submit to genetic tests pursuant to judi-
3 cial or administrative order;

4 “(D) may request that the individual sign
5 a voluntary acknowledgment of paternity, after
6 notice of the rights and consequences of such an
7 acknowledgment, but may not require the indi-
8 vidual to sign an acknowledgment or otherwise
9 relinquish the right to genetic tests as a condi-
10 tion of cooperation and eligibility for assistance
11 under the State program funded under part A or
12 the State program under title XXI; and

13 “(E) shall promptly notify the individual
14 and the State agency administering the State
15 program funded under part A and the State
16 agency administering the State program under
17 title XXI of each such determination, and if non-
18 cooperation is determined, the basis therefore.”.

19 **CHAPTER 5—PROGRAM ADMINISTRATION**
20 **AND FUNDING**

21 **SEC. 12341. PERFORMANCE-BASED INCENTIVES AND PEN-**
22 **ALTIES.**

23 (a) *DEVELOPMENT OF NEW SYSTEM.*—The Secretary
24 of Health and Human Services, in consultation with State
25 directors of programs under part D of title IV of the Social

1 *Security Act, shall develop a new incentive system to re-*
2 *place the system under section 458 of such Act. The new*
3 *system shall provide additional payments to any State*
4 *based on such State's performance under such a program.*

5 (b) *CONFORMING AMENDMENTS TO PRESENT SYS-*
6 *TEM.—Section 458 (42 U.S.C. 658) is amended—*

7 (1) *in subsection (a), by striking “aid to families*
8 *with dependent children under a State plan approved*
9 *under part A of this title” and inserting “assistance*
10 *under a program funded under part A”;*

11 (2) *in subsection (b)(1)(A), by striking “section*
12 *402(a)(26)” and inserting “section 407(a)(4)”;*

13 (3) *in subsections (b) and (c)—*

14 (A) *by striking “AFDC collections” each*
15 *place it appears and inserting “title IV–A collec-*
16 *tions”, and*

17 (B) *by striking “non-AFDC collections”*
18 *each place it appears and inserting “non-title*
19 *IV–A collections”; and*

20 (4) *in subsection (c), by striking “combined*
21 *AFDC/non-AFDC administrative costs” both places it*
22 *appears and inserting “combined title IV–A/non-title*
23 *IV–A administrative costs”.*

24 (c) *CALCULATION OF IV–D PATERNITY ESTABLISH-*
25 *MENT PERCENTAGE.—*

1 (1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is
2 amended in each of subparagraphs (A) and (B), by
3 striking “75” and inserting “90”.

4 (2) Section 452(g)(2)(A) (42 U.S.C.
5 652(g)(2)(A)) is amended in the matter preceding
6 clause (i)—

7 (A) by striking “paternity establishment
8 percentage” and inserting “IV-D paternity es-
9 tablishment percentage”; and

10 (B) by striking “(or all States, as the case
11 may be)”.

12 (3) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is
13 amended by adding at the end the following new sen-
14 tence: “In meeting the 90 percent paternity establish-
15 ment requirement, a State may calculate either the
16 paternity establishment rate of cases in the program
17 funded under this part or the paternity establishment
18 rate of all out-of-wedlock births in the State.”.

19 (4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is
20 amended—

21 (A) by striking subparagraph (A) and re-
22 designating subparagraphs (B) and (C) as sub-
23 paragraphs (A) and (B), respectively;

24 (B) in subparagraph (A) (as so redesign-
25 ated), by striking “the percentage of children

1 *born out-of-wedlock in a State” and inserting*
2 *“the percentage of children in a State who are*
3 *born out of wedlock or for whom support has not*
4 *been established”;* and

5 *(C) in subparagraph (B) (as so redesign-*
6 *ated) by inserting “and securing support” be-*
7 *fore the period.*

8 *(d) EFFECTIVE DATES.—*

9 *(1) INCENTIVE ADJUSTMENTS.—*

10 *(A) IN GENERAL.—The system developed under*
11 *subsection (a) and the amendments made by sub-*
12 *section (b) shall become effective on October 1, 1997,*
13 *except to the extent provided in subparagraph (B).*

14 *(B) APPLICATION OF SECTION 458.—Section 458*
15 *of the Social Security Act, as in effect on the day be-*
16 *fore the date of the enactment of this section, shall be*
17 *effective for purposes of incentive payments to States*
18 *for fiscal years before fiscal year 1999.*

19 *(2) PENALTY REDUCTIONS.—The amendments*
20 *made by subsection (c) shall become effective with re-*
21 *spect to calendar quarters beginning on or after the*
22 *date of the enactment of this Act.*

23 **SEC. 12342. FEDERAL AND STATE REVIEWS AND AUDITS.**

24 *(a) STATE AGENCY ACTIVITIES.—Section 454 (42*
25 *U.S.C. 654) is amended—*

1 (1) in paragraph (14), by striking “(14)” and
2 inserting “(14)(A)”;

3 (2) by redesignating paragraph (15) as subpara-
4 graph (B) of paragraph (14); and

5 (3) by inserting after paragraph (14) the follow-
6 ing new paragraph:

7 “(15) provide for—

8 “(A) a process for annual reviews of and re-
9 ports to the Secretary on the State program op-
10 erated under the State plan approved under this
11 part, including such information as may be nec-
12 essary to measure State compliance with Federal
13 requirements for expedited procedures, using
14 such standards and procedures as are required
15 by the Secretary, under which the State agency
16 will determine the extent to which the program
17 is operated in compliance with this part; and

18 “(B) a process of extracting from the auto-
19 mated data processing system required by para-
20 graph (16) and transmitting to the Secretary
21 data and calculations concerning the levels of ac-
22 complishment (and rates of improvement) with
23 respect to applicable performance indicators (in-
24 cluding IV-D paternity establishment percent-

1 *ages to the extent necessary for purposes of sec-*
2 *tions 452(g) and 458.”.*

3 **(b) FEDERAL ACTIVITIES.**—Section 452(a)(4) (42
4 *U.S.C. 652(a)(4)*) is amended to read as follows:

5 “(4)(A) review data and calculations transmitted
6 by State agencies pursuant to section 454(15)(B) on
7 State program accomplishments with respect to per-
8 formance indicators for purposes of subsection (g) of
9 this section and section 458;

10 “(B) review annual reports submitted pursuant
11 to section 454(15)(A) and, as appropriate, provide to
12 the State comments, recommendations for additional
13 or alternative corrective actions, and technical assist-
14 ance; and

15 “(C) conduct audits, in accordance with the Gov-
16 ernment auditing standards of the Comptroller Gen-
17 eral of the United States—

18 “(i) at least once every 3 years (or more fre-
19 quently, in the case of a State which fails to
20 meet the requirements of this part concerning
21 performance standards and reliability of pro-
22 gram data) to assess the completeness, reliability,
23 and security of the data, and the accuracy of the
24 reporting systems, used in calculating perform-

1 *ance indicators under subsection (g) of this sec-*
2 *tion and section 458;*

3 *“(ii) of the adequacy of financial manage-*
4 *ment of the State program operated under the*
5 *State plan approved under this part, including*
6 *assessments of—*

7 *“(I) whether Federal and other funds*
8 *made available to carry out the State pro-*
9 *gram are being appropriately expended,*
10 *and are properly and fully accounted for;*
11 *and*

12 *“(II) whether collections and disburse-*
13 *ments of support payments are carried out*
14 *correctly and are fully accounted for; and*

15 *“(iii) for such other purposes as the Sec-*
16 *retary may find necessary;”.*

17 *(c) EFFECTIVE DATE.—The amendments made by this*
18 *section shall be effective with respect to calendar quarters*
19 *beginning 12 months or more after the date of the enactment*
20 *of this Act.*

21 **SEC. 12343. REQUIRED REPORTING PROCEDURES.**

22 *(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C.*
23 *652(a)(5)) is amended by inserting “, and establish proce-*
24 *dures to be followed by States for collecting and reporting*
25 *information required to be provided under this part, and*

1 *establish uniform definitions (including those necessary to*
2 *enable the measurement of State compliance with the re-*
3 *quirements of this part relating to expedited processes) to*
4 *be applied in following such procedures” before the semi-*
5 *colon.*

6 (b) *STATE PLAN REQUIREMENT.*—Section 454 (42
7 U.S.C. 654), as amended by sections 12301(b), 12303(a),
8 12312(a), 12313(a), and 12333 of this Act, is amended—

9 (1) *by striking “and” at the end of paragraph*
10 *(28);*

11 (2) *by striking the period at the end of para-*
12 *graph (29) and inserting “; and”; and*

13 (3) *by adding after paragraph (29) the following*
14 *new paragraph:*

15 “(30) *provide that the State shall use the defini-*
16 *tions established under section 452(a)(5) in collecting*
17 *and reporting information as required under this*
18 *part.”.*

19 **SEC. 12344. AUTOMATED DATA PROCESSING REQUIRE-**
20 **MENTS.**

21 (a) *REVISED REQUIREMENTS.*—

22 (1) *IN GENERAL.*—Section 454(16) (42 U.S.C.
23 654(16)) is amended—

24 (A) *by striking “, at the option of the*
25 *State,”;*

1 (B) by inserting “and operation by the
2 State agency” after “for the establishment”;

3 (C) by inserting “meeting the requirements
4 of section 454A” after “information retrieval sys-
5 tem”;

6 (D) by striking “in the State and localities
7 thereof, so as (A)” and inserting “so as”;

8 (E) by striking “(i)”; and

9 (F) by striking “(including” and all that
10 follows and inserting a semicolon.

11 (2) *AUTOMATED DATA PROCESSING.*—Part D of
12 title IV (42 U.S.C. 651–669) is amended by inserting
13 after section 454 the following new section:

14 **“SEC. 454A. AUTOMATED DATA PROCESSING.**

15 “(a) *IN GENERAL.*—In order for a State to meet the
16 requirements of this section, the State agency administering
17 the State program under this part shall have in operation
18 a single statewide automated data processing and informa-
19 tion retrieval system which has the capability to perform
20 the tasks specified in this section with the frequency and
21 in the manner required by or under this part.

22 “(b) *PROGRAM MANAGEMENT.*—The automated system
23 required by this section shall perform such functions as the
24 Secretary may specify relating to management of the State
25 program under this part, including—

1 “(1) *controlling and accounting for use of Fed-*
2 *eral, State, and local funds in carrying out the pro-*
3 *gram; and*

4 “(2) *maintaining the data necessary to meet*
5 *Federal reporting requirements under this part on a*
6 *timely basis.*

7 “(c) *CALCULATION OF PERFORMANCE INDICATORS.—*
8 *In order to enable the Secretary to determine the incentive*
9 *payments and penalty adjustments required by sections*
10 *452(g) and 458, the State agency shall—*

11 “(1) *use the automated system—*

12 “(A) *to maintain the requisite data on*
13 *State performance with respect to paternity es-*
14 *tablishment and child support enforcement in the*
15 *State; and*

16 “(B) *to calculate the IV–D paternity estab-*
17 *lishment percentage for the State for each fiscal*
18 *year; and*

19 “(2) *have in place systems controls to ensure the*
20 *completeness and reliability of, and ready access to,*
21 *the data described in paragraph (1)(A), and the accu-*
22 *racy of the calculations described in paragraph*
23 *(1)(B).*

24 “(d) *INFORMATION INTEGRITY AND SECURITY.—The*
25 *State agency shall have in effect safeguards on the integrity,*

1 accuracy, and completeness of, access to, and use of data
2 in the automated system required by this section, which
3 shall include the following (in addition to such other safe-
4 guards as the Secretary may specify in regulations):

5 “(1) *POLICIES RESTRICTING ACCESS.*—Written
6 policies concerning access to data by State agency
7 personnel, and sharing of data with other persons,
8 which—

9 “(A) permit access to and use of data only
10 to the extent necessary to carry out the State
11 program under this part; and

12 “(B) specify the data which may be used for
13 particular program purposes, and the personnel
14 permitted access to such data.

15 “(2) *SYSTEMS CONTROLS.*—Systems controls
16 (such as passwords or blocking of fields) to ensure
17 strict adherence to the policies described in paragraph
18 (1).

19 “(3) *MONITORING OF ACCESS.*—Routine mon-
20 itoring of access to and use of the automated system,
21 through methods such as audit trails and feedback
22 mechanisms, to guard against and promptly identify
23 unauthorized access or use.

24 “(4) *TRAINING AND INFORMATION.*—Procedures
25 to ensure that all personnel (including State and local

1 agency staff and contractors) who may have access to
2 or be required to use confidential program data are
3 informed of applicable requirements and penalties
4 (including those in section 6103 of the Internal Reve-
5 nue Code of 1986), and are adequately trained in se-
6 curity procedures.

7 “(5) *PENALTIES.*—Administrative penalties (up
8 to and including dismissal from employment) for un-
9 authorized access to, or disclosure or use of, confiden-
10 tial data.”.

11 (3) *REGULATIONS.*—The Secretary of Health and
12 Human Services shall prescribe final regulations for
13 implementation of section 454A of the Social Security
14 Act not later than 2 years after the date of the enact-
15 ment of this Act.

16 (4) *IMPLEMENTATION TIMETABLE.*—Section
17 454(24) (42 U.S.C. 654(24)), as amended by section
18 12303(a)(1) of this Act, is amended to read as follows:

19 “(24) provide that the State will have in effect
20 an automated data processing and information re-
21 trieval system—

22 “(A) by October 1, 1997, which meets all re-
23 quirements of this part which were enacted on or
24 before the date of enactment of the Family Sup-
25 port Act of 1988, and

1 “(B) by October 1, 1999, which meets all re-
2 quirements of this part enacted on or before the
3 date of the enactment of the Personal Respon-
4 sibility and Work Opportunity Act of 1995, ex-
5 cept that such deadline shall be extended by 1
6 day for each day (if any) by which the Secretary
7 fails to meet the deadline imposed by section
8 12344(a)(3) of the Personal Responsibility and
9 Work Opportunity Act of 1995;”.

10 (b) *SPECIAL FEDERAL MATCHING RATE FOR DEVEL-*
11 *OPMENT COSTS OF AUTOMATED SYSTEMS.—*

12 (1) *IN GENERAL.—*Section 455(a) (42 U.S.C.
13 655(a)) is amended—

14 (A) in paragraph (1)(B)—

15 (i) by striking “90 percent” and in-
16 serting “the percent specified in paragraph
17 (3)”;

18 (ii) by striking “so much of”; and

19 (iii) by striking “which the Secretary”
20 and all that follows and inserting “, and”;
21 and

22 (B) by adding at the end the following new
23 paragraph:

24 “(3)(A) The Secretary shall pay to each State, for each
25 quarter in fiscal years 1996 and 1997, 90 percent of so

1 *much of the State expenditures described in paragraph*
2 *(1)(B) as the Secretary finds are for a system meeting the*
3 *requirements specified in section 454(16) (as in effect on*
4 *September 30, 1995) but limited to the amount approved*
5 *for States in the advance planning documents of such States*
6 *submitted on or before May 1, 1995.*

7 “(B)(i) *The Secretary shall pay to each State, for each*
8 *quarter in fiscal years 1997 through 2001, the percentage*
9 *specified in clause (ii) of so much of the State expenditures*
10 *described in paragraph (1)(B) as the Secretary finds are*
11 *for a system meeting the requirements of sections 454(16)*
12 *and 454A.*

13 “(ii) *The percentage specified in this clause is 80 per-*
14 *cent.*”.

15 (2) *TEMPORARY LIMITATION ON PAYMENTS*
16 *UNDER SPECIAL FEDERAL MATCHING RATE.—*

17 (A) *IN GENERAL.—The Secretary of Health*
18 *and Human Services may not pay more than*
19 *\$400,000,000 in the aggregate under section*
20 *455(a)(3) of the Social Security Act for fiscal*
21 *years 1996, 1997, 1998, 1999, and 2000.*

22 (B) *ALLOCATION OF LIMITATION AMONG*
23 *STATES.—The total amount payable to a State*
24 *under section 455(a)(3) of such Act for fiscal*
25 *years 1996, 1997, 1998, 1999, and 2000 shall*

1 *not exceed the limitation determined for the*
2 *State by the Secretary of Health and Human*
3 *Services in regulations.*

4 (C) *ALLOCATION FORMULA.*—*The regula-*
5 *tions referred to in subparagraph (B) shall pre-*
6 *scribe a formula for allocating the amount speci-*
7 *fied in subparagraph (A) among States with*
8 *plans approved under part D of title IV of the*
9 *Social Security Act, which shall take into ac-*
10 *count—*

11 (i) *the relative size of State caseloads*
12 *under such part; and*

13 (ii) *the level of automation needed to*
14 *meet the automated data processing require-*
15 *ments of such part.*

16 (c) *CONFORMING AMENDMENT.*—*Section 123(c) of the*
17 *Family Support Act of 1988 (102 Stat. 2352; Public Law*
18 *100–485) is repealed.*

19 ***SEC. 12345. TECHNICAL ASSISTANCE.***

20 (a) *FOR TRAINING OF FEDERAL AND STATE STAFF,*
21 *RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL*
22 *PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.*—
23 *Section 452 (42 U.S.C. 652) is amended by adding at the*
24 *end the following new subsection:*

1 “(j) *Out of any money in the Treasury of the United*
2 *States not otherwise appropriated, there is hereby appro-*
3 *priated to the Secretary for each fiscal year an amount*
4 *equal to 1 percent of the total amount paid to the Federal*
5 *Government pursuant to section 457(a) during the imme-*
6 *diately preceding fiscal year (as determined on the basis*
7 *of the most recent reliable data available to the Secretary*
8 *as of the end of the 3rd calendar quarter following the end*
9 *of such preceding fiscal year), to cover costs incurred by*
10 *the Secretary for—*

11 “(1) *information dissemination and technical as-*
12 *sistance to States, training of State and Federal staff,*
13 *staffing studies, and related activities needed to im-*
14 *prove programs under this part (including technical*
15 *assistance concerning State automated systems re-*
16 *quired by this part); and*

17 “(2) *research, demonstration, and special*
18 *projects of regional or national significance relating*
19 *to the operation of State programs under this part.”.*

20 **(b) OPERATION OF FEDERAL PARENT LOCATOR SERV-**
21 *ICE.—Section 453 (42 U.S.C. 653), as amended by section*
22 *12316 of this Act, is amended by adding at the end the*
23 *following new subsection:*

24 “(o) **RECOVERY OF COSTS.**—*Out of any money in the*
25 *Treasury of the United States not otherwise appropriated,*

1 *there is hereby appropriated to the Secretary for each fiscal*
2 *year an amount equal to 2 percent of the total amount paid*
3 *to the Federal Government pursuant to section 457(a) dur-*
4 *ing the immediately preceding fiscal year (as determined*
5 *on the basis of the most recent reliable data available to*
6 *the Secretary as of the end of the 3rd calendar quarter fol-*
7 *lowing the end of such preceding fiscal year), to cover costs*
8 *incurred by the Secretary for operation of the Federal Par-*
9 *ent Locator Service under this section, to the extent such*
10 *costs are not recovered through user fees.”.*

11 **SEC. 12346. REPORTS AND DATA COLLECTION BY THE SEC-**
12 **RETARY.**

13 (a) *ANNUAL REPORT TO CONGRESS.—*

14 (1) *Section 452(a)(10)(A) (42 U.S.C.*
15 *652(a)(10)(A)) is amended—*

16 (A) *by striking “this part;” and inserting*
17 *“this part, including—”; and*

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

20 *“(i) the total amount of child support*
21 *payments collected as a result of services*
22 *furnished during the fiscal year to individ-*
23 *uals receiving services under this part;*

1 “(ii) the cost to the States and to the
2 Federal Government of so furnishing the
3 services; and

4 “(iii) the number of cases involving
5 families—

6 “(I) who became ineligible for as-
7 sistance under State programs funded
8 under part A during a month in the
9 fiscal year; and

10 “(II) with respect to whom a child
11 support payment was received in the
12 month;”.

13 (2) Section 452(a)(10)(C) (42 U.S.C.
14 652(a)(10)(C)) is amended—

15 (A) in the matter preceding clause (i)—

16 (i) by striking “with the data required
17 under each clause being separately stated
18 for cases” and inserting “separately stated
19 for (1) cases”;

20 (ii) by striking “cases where the child
21 was formerly receiving” and inserting “or
22 formerly received”;

23 (iii) by inserting “or 1912” after
24 “471(a)(17)”; and

1 (iv) by inserting “(2)” before “all
2 other”;

3 (B) in each of clauses (i) and (ii), by strik-
4 ing “, and the total amount of such obligations”;

5 (C) in clause (iii), by striking “described
6 in” and all that follows and inserting “in which
7 support was collected during the fiscal year;”;

8 (D) by striking clause (iv); and

9 (E) by redesignating clause (v) as clause
10 (vii), and inserting after clause (iii) the follow-
11 ing new clauses:

12 “(iv) the total amount of support col-
13 lected during such fiscal year and distrib-
14 uted as current support;

15 “(v) the total amount of support col-
16 lected during such fiscal year and distrib-
17 uted as arrearages;

18 “(vi) the total amount of support due
19 and unpaid for all fiscal years; and”.

20 (3) Section 452(a)(10)(G) (42 U.S.C.
21 652(a)(10)(G)) is amended by striking “on the use of
22 Federal courts and”.

23 (4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is
24 amended—

1 (A) in subparagraph (H), by striking
2 “and”;

3 (B) in subparagraph (I), by striking the pe-
4 riod and inserting “; and”; and

5 (C) by inserting after subparagraph (I) the
6 following new subparagraph:

7 “(J) compliance, by State, with the stand-
8 ards established pursuant to subsections (h) and
9 (i).”.

10 (5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is
11 amended by striking all that follows subparagraph
12 (J), as added by paragraph (4).

13 (b) *EFFECTIVE DATE.*—The amendments made by sub-
14 section (a) shall be effective with respect to fiscal year 1996
15 and succeeding fiscal years.

16 **CHAPTER 6—ESTABLISHMENT AND**
17 **MODIFICATION OF SUPPORT ORDERS**

18 **SEC. 12351. SIMPLIFIED PROCESS FOR REVIEW AND AD-**
19 **JUSTMENT OF CHILD SUPPORT ORDERS.**

20 Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended
21 to read as follows:

22 “(10) *REVIEW AND ADJUSTMENT OF SUPPORT*
23 *ORDERS UPON REQUEST.*—Procedures under which
24 the State shall review and adjust each support order
25 being enforced under this part upon the request of ei-

1 *ther parent or the State if there is an assignment.*

2 *Such procedures shall provide the following:*

3 *“(A) IN GENERAL.—*

4 *“(i) 3-YEAR CYCLE.—Except as pro-*
5 *vided in subparagraphs (B) and (C), the*
6 *State shall review and, as appropriate, ad-*
7 *just the support order every 3 years, taking*
8 *into account the best interests of the child*
9 *involved.*

10 *“(ii) METHODS OF ADJUSTMENT.—The*
11 *State may elect to review and, if appro-*
12 *priate, adjust an order pursuant to clause*
13 *(i) by—*

14 *“(I) reviewing and, if appro-*
15 *priate, adjusting the order in accord-*
16 *ance with the guidelines established*
17 *pursuant to section 467(a) if the*
18 *amount of the child support award*
19 *under the order differs from the*
20 *amount that would be awarded in ac-*
21 *cordance with the guidelines; or*

22 *“(II) applying a cost-of-living ad-*
23 *justment to the order in accordance*
24 *with a formula developed by the State*
25 *and permit either party to contest the*

1 *adjustment, within 30 days after the*
2 *date of the notice of the adjustment, by*
3 *making a request for review and, if ap-*
4 *propriate, adjustment of the order in*
5 *accordance with the child support*
6 *guidelines established pursuant to sec-*
7 *tion 467(a).*

8 “(iii) *NO PROOF OF CHANGE IN CIR-*
9 *CUMSTANCES NECESSARY.—Any adjustment*
10 *under this subparagraph (A) shall be made*
11 *without a requirement for proof or showing*
12 *of a change in circumstances.*

13 “(B) *AUTOMATED METHOD.—The State*
14 *may use automated methods (including auto-*
15 *mated comparisons with wage or State income*
16 *tax data) to identify orders eligible for review,*
17 *conduct the review, identify orders eligible for*
18 *adjustment, and apply the appropriate adjust-*
19 *ment to the orders eligible for adjustment under*
20 *the threshold established by the State.*

21 “(C) *REQUEST UPON SUBSTANTIAL CHANGE*
22 *IN CIRCUMSTANCES.—The State shall, at the re-*
23 *quest of either parent subject to such an order or*
24 *of any State child support enforcement agency,*
25 *review and, if appropriate, adjust the order in*

1 *accordance with the guidelines established pursu-*
2 *ant to section 467(a) based upon a substantial*
3 *change in the circumstances of either parent.*

4 “(D) *NOTICE OF RIGHT TO REVIEW.*—*The*
5 *State shall provide notice not less than once*
6 *every 3 years to the parents subject to such an*
7 *order informing them of their right to request the*
8 *State to review and, if appropriate, adjust the*
9 *order pursuant to this paragraph. The notice*
10 *may be included in the order.”.*

11 ***SEC. 12352. FURNISHING CONSUMER REPORTS FOR CER-***
12 ***TAIN PURPOSES RELATING TO CHILD SUP-***
13 ***PORT.***

14 *Section 604 of the Fair Credit Reporting Act (15*
15 *U.S.C. 1681b) is amended by adding at the end the follow-*
16 *ing new paragraphs:*

17 “(4) *In response to a request by the head of a*
18 *State or local child support enforcement agency (or a*
19 *State or local government official authorized by the*
20 *head of such an agency), if the person making the re-*
21 *quest certifies to the consumer reporting agency*
22 *that—*

23 “(A) *the consumer report is needed for the*
24 *purpose of establishing an individual’s capacity*

1 to make child support payments or determining
2 the appropriate level of such payments;

3 “(B) the paternity of the consumer for the
4 child to which the obligation relates has been es-
5 tablished or acknowledged by the consumer in ac-
6 cordance with State laws under which the obliga-
7 tion arises (if required by those laws);

8 “(C) the person has provided at least 10
9 days’ prior notice to the consumer whose report
10 is requested, by certified or registered mail to the
11 last known address of the consumer, that the re-
12 port will be requested; and

13 “(D) the consumer report will be kept con-
14 fidential, will be used solely for a purpose de-
15 scribed in subparagraph (A), and will not be
16 used in connection with any other civil, admin-
17 istrative, or criminal proceeding, or for any
18 other purpose.

19 “(5) To an agency administering a State plan
20 under section 454 of the Social Security Act (42
21 U.S.C. 654) for use to set an initial or modified child
22 support award.”.

1 **SEC. 12353. NONLIABILITY FOR FINANCIAL INSTITUTIONS**
2 **PROVIDING FINANCIAL RECORDS TO STATE**
3 **CHILD SUPPORT ENFORCEMENT AGENCIES**
4 **IN CHILD SUPPORT CASES.**

5 (a) *IN GENERAL.*—Notwithstanding any other provi-
6 sion of Federal or State law, a financial institution shall
7 not be liable under any Federal or State law to any person
8 for disclosing any financial record of an individual to a
9 State child support enforcement agency attempting to estab-
10 lish, modify, or enforce a child support obligation of such
11 individual.

12 (b) *PROHIBITION OF DISCLOSURE OF FINANCIAL*
13 *RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCE-*
14 *MENT AGENCY.*—A State child support enforcement agency
15 which obtains a financial record of an individual from a
16 financial institution pursuant to subsection (a) may dis-
17 close such financial record only for the purpose of, and to
18 the extent necessary in, establishing, modifying, or enforce-
19 ing a child support obligation of such individual.

20 (c) *CIVIL DAMAGES FOR UNAUTHORIZED DISCLO-*
21 *SURE.*—

22 (1) *DISCLOSURE BY STATE OFFICER OR EM-*
23 *PLOYEE.*—If any person knowingly, or by reason of
24 negligence, discloses a financial record of an individ-
25 ual in violation of subsection (b), such individual

1 *may bring a civil action for damages against such*
2 *person in a district court of the United States.*

3 (2) *NO LIABILITY FOR GOOD FAITH BUT ERRO-*
4 *NEOUS INTERPRETATION.—No liability shall arise*
5 *under this subsection with respect to any disclosure*
6 *which results from a good faith, but erroneous, inter-*
7 *pretation of subsection (b).*

8 (3) *DAMAGES.—In any action brought under*
9 *paragraph (1), upon a finding of liability on the part*
10 *of the defendant, the defendant shall be liable to the*
11 *plaintiff in an amount equal to the sum of—*

12 (A) *the greater of—*

13 (i) *\$1,000 for each act of unauthorized*
14 *disclosure of a financial record with respect*
15 *to which such defendant is found liable; or*

16 (ii) *the sum of—*

17 (I) *the actual damages sustained*
18 *by the plaintiff as a result of such un-*
19 *authorized disclosure; plus*

20 (II) *in the case of a willful disclo-*
21 *sure or a disclosure which is the result*
22 *of gross negligence, punitive damages;*
23 *plus*

24 (B) *the costs (including attorney's fees) of*
25 *the action.*

1 (d) *DEFINITIONS.*—*For purposes of this section—*

2 (1) *FINANCIAL INSTITUTION.*—*The term “financial*
3 *institution” means—*

4 (A) *a depository institution, as defined in*
5 *section 3(c) of the Federal Deposit Insurance Act*
6 *(12 U.S.C. 1813(c));*

7 (B) *an institution-affiliated party, as de-*
8 *defined in section 3(u) of such Act (12 U.S.C.*
9 *1813(v));*

10 (C) *any Federal credit union or State credit*
11 *union, as defined in section 101 of the Federal*
12 *Credit Union Act (12 U.S.C. 1752), including*
13 *an institution-affiliated party of such a credit*
14 *union, as defined in section 206(r) of such Act*
15 *(12 U.S.C. 1786(r)); and*

16 (D) *any benefit association, insurance com-*
17 *pany, safe deposit company, money-market mu-*
18 *tual fund, or similar entity authorized to do*
19 *business in the State.*

20 (2) *FINANCIAL RECORD.*—*The term “financial*
21 *record” has the meaning given such term in section*
22 *1101 of the Right to Financial Privacy Act of 1978*
23 *(12 U.S.C. 3401).*

24 (3) *STATE CHILD SUPPORT ENFORCEMENT AGEN-*
25 *CY.*—*The term “State child support enforcement agen-*

1 **SEC. 12362. AUTHORITY TO COLLECT SUPPORT FROM FED-**
2 **ERAL EMPLOYEES.**

3 (a) *CONSOLIDATION AND STREAMLINING OF AUTHORI-*
4 *TIES.*—Section 459 (42 U.S.C. 659) is amended to read as
5 follows:

6 **“SEC. 459. CONSENT BY THE UNITED STATES TO INCOME**
7 **WITHHOLDING, GARNISHMENT, AND SIMILAR**
8 **PROCEEDINGS FOR ENFORCEMENT OF CHILD**
9 **SUPPORT AND ALIMONY OBLIGATIONS.**

10 “(a) *CONSENT TO SUPPORT ENFORCEMENT.*—Not-
11 *withstanding any other provision of law (including section*
12 *207 of this Act and section 5301 of title 38, United States*
13 *Code), effective January 1, 1975, moneys (the entitlement*
14 *to which is based upon remuneration for employment) due*
15 *from, or payable by, the United States or the District of*
16 *Columbia (including any agency, subdivision, or instru-*
17 *mentality thereof) to any individual, including members of*
18 *the Armed Forces of the United States, shall be subject, in*
19 *like manner and to the same extent as if the United States*
20 *or the District of Columbia were a private person, to with-*
21 *holding in accordance with State law enacted pursuant to*
22 *subsections (a)(1) and (b) of section 466 and regulations*
23 *of the Secretary under such subsections, and to any other*
24 *legal process brought, by a State agency administering a*
25 *program under a State plan approved under this part or*

1 *by an individual obligee, to enforce the legal obligation of*
2 *the individual to provide child support or alimony.*

3 “(b) *CONSENT TO REQUIREMENTS APPLICABLE TO*
4 *PRIVATE PERSON.—With respect to notice to withhold in-*
5 *come pursuant to subsection (a)(1) or (b) of section 466,*
6 *or any other order or process to enforce support obligations*
7 *against an individual (if the order or process contains or*
8 *is accompanied by sufficient data to permit prompt identi-*
9 *fication of the individual and the moneys involved), each*
10 *governmental entity specified in subsection (a) shall be sub-*
11 *ject to the same requirements as would apply if the entity*
12 *were a private person, except as otherwise provided in this*
13 *section.*

14 “(c) *DESIGNATION OF AGENT; RESPONSE TO NOTICE*
15 *OR PROCESS—*

16 “(1) *DESIGNATION OF AGENT.—The head of each*
17 *agency subject to this section shall—*

18 “(A) *designate an agent or agents to receive*
19 *orders and accept service of process in matters*
20 *relating to child support or alimony; and*

21 “(B) *annually publish in the Federal Reg-*
22 *ister the designation of the agent or agents, iden-*
23 *tified by title or position, mailing address, and*
24 *telephone number.*

1 “(2) *RESPONSE TO NOTICE OR PROCESS.*—If an
2 agent designated pursuant to paragraph (1) of this
3 subsection receives notice pursuant to State proce-
4 dures in effect pursuant to subsection (a)(1) or (b) of
5 section 466, or is effectively served with any order,
6 process, or interrogatory, with respect to an individ-
7 ual’s child support or alimony payment obligations,
8 the agent shall—

9 “(A) as soon as possible (but not later than
10 15 days) thereafter, send written notice of the no-
11 tice or service (together with a copy of the notice
12 or service) to the individual at the duty station
13 or last-known home address of the individual;

14 “(B) within 30 days (or such longer period
15 as may be prescribed by applicable State law)
16 after receipt of a notice pursuant to such State
17 procedures, comply with all applicable provi-
18 sions of section 466; and

19 “(C) within 30 days (or such longer period
20 as may be prescribed by applicable State law)
21 after effective service of any other such order,
22 process, or interrogatory, respond to the order,
23 process, or interrogatory.

24 “(d) *PRIORITY OF CLAIMS.*—If a governmental entity
25 specified in subsection (a) receives notice or is served with

1 process, as provided in this section, concerning amounts
2 owed by an individual to more than 1 person—

3 “(1) support collection under section 466(b) must
4 be given priority over any other process, as provided
5 in section 466(b)(7);

6 “(2) allocation of moneys due or payable to an
7 individual among claimants under section 466(b)
8 shall be governed by section 466(b) and the regula-
9 tions prescribed under such section; and

10 “(3) such moneys as remain after compliance
11 with paragraphs (1) and (2) shall be available to sat-
12 isfy any other such processes on a first-come, first-
13 served basis, with any such process being satisfied out
14 of such moneys as remain after the satisfaction of all
15 such processes which have been previously served.

16 “(e) *NO REQUIREMENT TO VARY PAY CYCLES.*—A
17 governmental entity that is affected by legal process served
18 for the enforcement of an individual’s child support or ali-
19 mony payment obligations shall not be required to vary its
20 normal pay and disbursement cycle in order to comply with
21 the legal process.

22 “(f) *RELIEF FROM LIABILITY.*—

23 “(1) Neither the United States, nor the govern-
24 ment of the District of Columbia, nor any disbursing
25 officer shall be liable with respect to any payment

1 *made from moneys due or payable from the United*
2 *States to any individual pursuant to legal process*
3 *regular on its face, if the payment is made in accord-*
4 *ance with this section and the regulations issued to*
5 *carry out this section.*

6 “(2) *No Federal employee whose duties include*
7 *taking actions necessary to comply with the require-*
8 *ments of subsection (a) with regard to any individual*
9 *shall be subject under any law to any disciplinary ac-*
10 *tion or civil or criminal liability or penalty for, or*
11 *on account of, any disclosure of information made by*
12 *the employee in connection with the carrying out of*
13 *such actions.*

14 “(g) *REGULATIONS.—Authority to promulgate regula-*
15 *tions for the implementation of this section shall, insofar*
16 *as this section applies to moneys due from (or payable*
17 *by)—*

18 “(1) *the United States (other than the legislative*
19 *or judicial branches of the Federal Government) or*
20 *the government of the District of Columbia, be vested*
21 *in the President (or the designee of the President);*

22 “(2) *the legislative branch of the Federal Govern-*
23 *ment, be vested jointly in the President pro tempore*
24 *of the Senate and the Speaker of the House of Rep-*
25 *resentatives (or their designees), and*

1 “(3) *the judicial branch of the Federal Govern-*
2 *ment, be vested in the Chief Justice of the United*
3 *States (or the designee of the Chief Justice).*

4 “(h) *MONEYS SUBJECT TO PROCESS.—*

5 “(1) *IN GENERAL.—Subject to paragraph (2),*
6 *moneys paid or payable to an individual which are*
7 *considered to be based upon remuneration for employ-*
8 *ment, for purposes of this section—*

9 “(A) *consist of—*

10 “(i) *compensation paid or payable for*
11 *personal services of the individual, whether*
12 *the compensation is denominated as wages,*
13 *salary, commission, bonus, pay, allowances,*
14 *or otherwise (including severance pay, sick*
15 *pay, and incentive pay);*

16 “(ii) *periodic benefits (including a*
17 *periodic benefit as defined in section*
18 *228(h)(3)) or other payments—*

19 “(I) *under the insurance system*
20 *established by title II;*

21 “(II) *under any other system or*
22 *fund established by the United States*
23 *which provides for the payment of pen-*
24 *sions, retirement or retired pay, annu-*
25 *ities, dependents’ or survivors’ benefits,*

1 *or similar amounts payable on account*
2 *of personal services performed by the*
3 *individual or any other individual;*

4 *“(III) as compensation for death*
5 *under any Federal program;*

6 *“(IV) under any Federal program*
7 *established to provide ‘black lung’ bene-*
8 *fits; or*

9 *“(V) by the Secretary of Veterans*
10 *Affairs as pension, or as compensation*
11 *for a service-connected disability or*
12 *death; and*

13 *“(iii) worker’s compensation benefits*
14 *paid under Federal or State law but*

15 *“(B) do not include any payment—*

16 *“(i) by way of reimbursement or other-*
17 *wise, to defray expenses incurred by the in-*
18 *dividual in carrying out duties associated*
19 *with the employment of the individual; or*

20 *“(ii) as allowances for members of the*
21 *uniformed services payable pursuant to*
22 *chapter 7 of title 37, United States Code, as*
23 *prescribed by the Secretaries concerned (de-*
24 *defined by section 101(5) of such title) as nec-*
25 *essary for the efficient performance of duty.*

1 “(2) *CERTAIN AMOUNTS EXCLUDED.*—*In deter-*
2 *mining the amount of any moneys due from, or pay-*
3 *able by, the United States to any individual, there*
4 *shall be excluded amounts which—*

5 “(A) *are owed by the individual to the*
6 *United States;*

7 “(B) *are required by law to be, and are, de-*
8 *ducted from the remuneration or other payment*
9 *involved, including Federal employment taxes,*
10 *and fines and forfeitures ordered by court-mar-*
11 *tial;*

12 “(C) *are properly withheld for Federal,*
13 *State, or local income tax purposes, if the with-*
14 *holding of the amounts is authorized or required*
15 *by law and if amounts withheld are not greater*
16 *than would be the case if the individual claimed*
17 *all dependents to which he was entitled (the*
18 *withholding of additional amounts pursuant to*
19 *section 3402(i) of the Internal Revenue Code of*
20 *1986 may be permitted only when the individual*
21 *presents evidence of a tax obligation which sup-*
22 *ports the additional withholding);*

23 “(D) *are deducted as health insurance pre-*
24 *miums;*

1 “(E) are deducted as normal retirement
2 contributions (not including amounts deducted
3 for supplementary coverage); or

4 “(F) are deducted as normal life insurance
5 premiums from salary or other remuneration for
6 employment (not including amounts deducted for
7 supplementary coverage).

8 “(i) *DEFINITIONS.*—For purposes of this section—

9 “(1) *UNITED STATES.*—The term ‘United States’
10 includes any department, agency, or instrumentality
11 of the legislative, judicial, or executive branch of the
12 Federal Government, the United States Postal Serv-
13 ice, the Postal Rate Commission, any Federal cor-
14 poration created by an Act of Congress that is wholly
15 owned by the Federal Government, and the govern-
16 ments of the territories and possessions of the United
17 States.

18 “(2) *CHILD SUPPORT.*—The term ‘child support’,
19 when used in reference to the legal obligations of an
20 individual to provide such support, means amounts
21 required to be paid under a judgment, decree, or
22 order, whether temporary, final, or subject to modi-
23 fication, issued by a court or an administrative agen-
24 cy of competent jurisdiction, for the support and
25 maintenance of a child, including a child who has at-

1 *tained the age of majority under the law of the issu-*
2 *ing State, or a child and the parent with whom the*
3 *child is living, which provides for monetary support,*
4 *health care, arrearages or reimbursement, and which*
5 *may include other related costs and fees, interest and*
6 *penalties, income withholding, attorney’s fees, and*
7 *other relief.*

8 *“(3) ALIMONY.—*

9 *“(A) IN GENERAL.—The term ‘alimony’,*
10 *when used in reference to the legal obligations of*
11 *an individual to provide the same, means peri-*
12 *odic payments of funds for the support and*
13 *maintenance of the spouse (or former spouse) of*
14 *the individual, and (subject to and in accordance*
15 *with State law) includes separate maintenance,*
16 *alimony pendente lite, maintenance, and spousal*
17 *support, and includes attorney’s fees, interest,*
18 *and court costs when and to the extent that the*
19 *same are expressly made recoverable as such pur-*
20 *suant to a decree, order, or judgment issued in*
21 *accordance with applicable State law by a court*
22 *of competent jurisdiction.*

23 *“(B) EXCEPTIONS.—Such term does not in-*
24 *clude—*

25 *“(i) any child support; or*

1 “(ii) any payment or transfer of prop-
2 erty or its value by an individual to the
3 spouse or a former spouse of the individual
4 in compliance with any community prop-
5 erty settlement, equitable distribution of
6 property, or other division of property be-
7 tween spouses or former spouses.

8 “(4) PRIVATE PERSON.—The term ‘private per-
9 son’ means a person who does not have sovereign or
10 other special immunity or privilege which causes the
11 person not to be subject to legal process.

12 “(5) LEGAL PROCESS.—The term ‘legal process’
13 means any writ, order, summons, or other similar
14 process in the nature of garnishment—

15 “(A) which is issued by—

16 “(i) a court or an administrative agen-
17 cy of competent jurisdiction in any State,
18 territory, or possession of the United States;

19 “(ii) a court or an administrative
20 agency of competent jurisdiction in any for-
21 eign country with which the United States
22 has entered into an agreement which re-
23 quires the United States to honor the proc-
24 ess; or

1 “(iii) an authorized official pursuant
2 to an order of such a court or an adminis-
3 trative agency of competent jurisdiction or
4 pursuant to State or local law; and

5 “(B) which is directed to, and the purpose
6 of which is to compel, a governmental entity
7 which holds moneys which are otherwise payable
8 to an individual to make a payment from the
9 moneys to another party in order to satisfy a
10 legal obligation of the individual to provide child
11 support or make alimony payments.”.

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) *TO PART D OF TITLE IV.*—Sections 461 and
14 462 (42 U.S.C. 661 and 662) are repealed.

15 (2) *TO TITLE 5, UNITED STATES CODE.*—Section
16 5520a of title 5, United States Code, is amended, in
17 subsections (h)(2) and (i), by striking “sections 459,
18 461, and 462 of the Social Security Act (42 U.S.C.
19 659, 661, and 662)” and inserting “section 459 of the
20 Social Security Act (42 U.S.C. 659)”.

21 (c) *MILITARY RETIRED AND RETAINER PAY.*—

22 (1) *DEFINITION OF COURT.*—Section 1408(a)(1)
23 of title 10, United States Code, is amended—

24 (A) by striking “and” at the end of sub-
25 paragraph (B);

1 (B) by striking the period at the end of sub-
2 paragraph (C) and inserting “; and”; and

3 (C) by adding after subparagraph (C) the
4 following: new subparagraph

5 “(D) any administrative or judicial tribu-
6 nal of a State competent to enter orders for sup-
7 port or maintenance (including a State agency
8 administering a program under a State plan ap-
9 proved under part D of title IV of the Social Se-
10 curity Act), and, for purposes of this subpara-
11 graph, the term ‘State’ includes the District of
12 Columbia, the Commonwealth of Puerto Rico, the
13 Virgin Islands, Guam, and American Samoa.”.

14 (2) *DEFINITION OF COURT ORDER.*—Section
15 1408(a)(2) of such title is amended—

16 (A) by inserting “or a support order, as de-
17 fined in section 453(p) of the Social Security Act
18 (42 U.S.C. 653(p)),” before “which—”;

19 (B) in subparagraph (B)(i), by striking
20 “(as defined in section 462(b) of the Social Secu-
21 rity Act (42 U.S.C. 662(b)))” and inserting “(as
22 defined in section 459(i)(2) of the Social Secu-
23 rity Act (42 U.S.C. 662(i)(2)))”; and

24 (C) in subparagraph (B)(ii), by striking
25 “(as defined in section 462(c) of the Social Secu-

1 *rity Act (42 U.S.C. 662(c))*” and inserting “(as
2 *defined in section 459(i)(3) of the Social Secu-*
3 *rity Act (42 U.S.C. 662(i)(3))*”.

4 (3) *PUBLIC PAYEE.*—Section 1408(d) of such
5 *title is amended—*

6 (A) *in the heading, by inserting “(OR FOR*
7 *BENEFIT OF)” before “SPOUSE OR”; and*

8 (B) *in paragraph (1), in the 1st sentence,*
9 *by inserting “(or for the benefit of such spouse*
10 *or former spouse to a State disbursement unit es-*
11 *tablished pursuant to section 454B of the Social*
12 *Security Act or other public payee designated by*
13 *a State, in accordance with part D of title IV of*
14 *the Social Security Act, as directed by court*
15 *order, or as otherwise directed in accordance*
16 *with such part D)” before “in an amount suffi-*
17 *cient”.*

18 (4) *RELATIONSHIP TO PART D OF TITLE IV.*—
19 *Section 1408 of such title is amended by adding at*
20 *the end the following new subsection:*

21 “(j) *RELATIONSHIP TO OTHER LAWS.*—*In any case*
22 *involving an order providing for payment of child support*
23 *(as defined in section 459(i)(2) of the Social Security Act)*
24 *by a member who has never been married to the other par-*
25 *ent of the child, the provisions of this section shall not*

1 *apply, and the case shall be subject to the provisions of sec-*
2 *tion 459 of such Act.”.*

3 (d) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall become effective 6 months after the date of the*
5 *enactment of this Act.*

6 **SEC. 12363. ENFORCEMENT OF CHILD SUPPORT OBLIGA-**
7 **TIONS OF MEMBERS OF THE ARMED FORCES.**

8 (a) *AVAILABILITY OF LOCATOR INFORMATION.*—

9 (1) *MAINTENANCE OF ADDRESS INFORMATION.*—

10 *The Secretary of Defense shall establish a centralized*
11 *personnel locator service that includes the address of*
12 *each member of the Armed Forces under the jurisdic-*
13 *tion of the Secretary. Upon request of the Secretary*
14 *of Transportation, addresses for members of the Coast*
15 *Guard shall be included in the centralized personnel*
16 *locator service.*

17 (2) *TYPE OF ADDRESS.*—

18 (A) *RESIDENTIAL ADDRESS.*—*Except as*
19 *provided in subparagraph (B), the address for a*
20 *member of the Armed Forces shown in the loca-*
21 *tor service shall be the residential address of that*
22 *member.*

23 (B) *DUTY ADDRESS.*—*The address for a*
24 *member of the Armed Forces shown in the loca-*

1 *tor service shall be the duty address of that mem-*
2 *ber in the case of a member—*

3 *(i) who is permanently assigned over-*
4 *seas, to a vessel, or to a routinely deployable*
5 *unit; or*

6 *(ii) with respect to whom the Secretary*
7 *concerned makes a determination that the*
8 *member's residential address should not be*
9 *disclosed due to national security or safety*
10 *concerns.*

11 *(3) UPDATING OF LOCATOR INFORMATION.—*
12 *Within 30 days after a member listed in the locator*
13 *service establishes a new residential address (or a new*
14 *duty address, in the case of a member covered by*
15 *paragraph (2)(B)), the Secretary concerned shall up-*
16 *date the locator service to indicate the new address of*
17 *the member.*

18 *(4) AVAILABILITY OF INFORMATION.—The Sec-*
19 *retary of Defense shall make information regarding*
20 *the address of a member of the Armed Forces listed*
21 *in the locator service available, on request, to the Fed-*
22 *eral Parent Locator Service established under section*
23 *453 of the Social Security Act.*

24 *(b) FACILITATING GRANTING OF LEAVE FOR ATTEND-*
25 *ANCE AT HEARINGS.—*

1 (1) *REGULATIONS.*—*The Secretary of each mili-*
2 *tary department, and the Secretary of Transportation*
3 *with respect to the Coast Guard when it is not operat-*
4 *ing as a service in the Navy, shall prescribe regula-*
5 *tions to facilitate the granting of leave to a member*
6 *of the Armed Forces under the jurisdiction of that*
7 *Secretary in a case in which—*

8 (A) *the leave is needed for the member to at-*
9 *tend a hearing described in paragraph (2);*

10 (B) *the member is not serving in or with a*
11 *unit deployed in a contingency operation (as de-*
12 *finied in section 101 of title 10, United States*
13 *Code); and*

14 (C) *the exigencies of military service (as de-*
15 *termined by the Secretary concerned) do not oth-*
16 *erwise require that such leave not be granted.*

17 (2) *COVERED HEARINGS.*—*Paragraph (1) ap-*
18 *plies to a hearing that is conducted by a court or*
19 *pursuant to an administrative process established*
20 *under State law, in connection with a civil action—*

21 (A) *to determine whether a member of the*
22 *Armed Forces is a natural parent of a child; or*

23 (B) *to determine an obligation of a member*
24 *of the Armed Forces to provide child support.*

1 (3) *DEFINITIONS.*—*For purposes of this sub-*
2 *section—*

3 (A) *The term “court” has the meaning*
4 *given that term in section 1408(a) of title 10,*
5 *United States Code.*

6 (B) *The term “child support” has the mean-*
7 *ing given such term in section 459(i) of the So-*
8 *cial Security Act (42 U.S.C. 659(i)).*

9 (c) *PAYMENT OF MILITARY RETIRED PAY IN COMPLI-*
10 *ANCE WITH CHILD SUPPORT ORDERS.—*

11 (1) *DATE OF CERTIFICATION OF COURT*
12 *ORDER.—Section 1408 of title 10, United States Code,*
13 *as amended by section 362(c)(4) of this Act, is*
14 *amended—*

15 (A) *by redesignating subsections (i) and (j)*
16 *as subsections (j) and (k), respectively; and*

17 (B) *by inserting after subsection (h) the fol-*
18 *lowing new subsection:*

19 “(i) *CERTIFICATION DATE.*—*It is not necessary that*
20 *the date of a certification of the authenticity or completeness*
21 *of a copy of a court order for child support received by the*
22 *Secretary concerned for the purposes of this section be recent*
23 *in relation to the date of receipt by the Secretary.”.*

24 (2) *PAYMENTS CONSISTENT WITH ASSIGNMENTS*
25 *OF RIGHTS TO STATES.—Section 1408(d)(1) of such*

1 *title is amended by inserting after the 1st sentence the*
2 *following new sentence: “In the case of a spouse or*
3 *former spouse who, pursuant to section 407(a)(4) of*
4 *the Social Security Act (42 U.S.C. 607(a)(4)), assigns*
5 *to a State the rights of the spouse or former spouse*
6 *to receive support, the Secretary concerned may make*
7 *the child support payments referred to in the preced-*
8 *ing sentence to that State in amounts consistent with*
9 *that assignment of rights.”.*

10 (3) *ARREARAGES OWED BY MEMBERS OF THE*
11 *UNIFORMED SERVICES.—Section 1408(d) of such title*
12 *is amended by adding at the end the following new*
13 *paragraph:*

14 *“(6) In the case of a court order for which effective*
15 *service is made on the Secretary concerned on or after the*
16 *date of the enactment of this paragraph and which provides*
17 *for payments from the disposable retired pay of a member*
18 *to satisfy the amount of child support set forth in the order,*
19 *the authority provided in paragraph (1) to make payments*
20 *from the disposable retired pay of a member to satisfy the*
21 *amount of child support set forth in a court order shall*
22 *apply to payment of any amount of child support arrear-*
23 *ages set forth in that order as well as to amounts of child*
24 *support that currently become due.”.*

1 (4) *PAYROLL DEDUCTIONS.*—*The Secretary of*
2 *Defense shall begin payroll deductions within 30 days*
3 *after receiving notice of withholding, or for the 1st*
4 *pay period that begins after such 30-day period.*

5 **SEC. 12364. VOIDING OF FRAUDULENT TRANSFERS.**

6 *Section 466 (42 U.S.C. 666), as amended by section*
7 *321 of this Act, is amended by adding at the end the follow-*
8 *ing new subsection:*

9 “(g) *LAWS VOIDING FRAUDULENT TRANSFERS.*—*In*
10 *order to satisfy section 454(20)(A), each State must have*
11 *in effect—*

12 “(1)(A) *the Uniform Fraudulent Conveyance Act*
13 *of 1981;*

14 “(B) *the Uniform Fraudulent Transfer Act*
15 *of 1984; or*

16 “(C) *another law, specifying indicia of*
17 *fraud which create a prima facie case that a*
18 *debtor transferred income or property to avoid*
19 *payment to a child support creditor, which the*
20 *Secretary finds affords comparable rights to*
21 *child support creditors; and*

22 “(2) *procedures under which, in any case in*
23 *which the State knows of a transfer by a child sup-*
24 *port debtor with respect to which such a prima facie*
25 *case is established, the State must—*

1 “(A) seek to void such transfer; or

2 “(B) obtain a settlement in the best inter-
3 ests of the child support creditor.”.

4 **SEC. 12365. WORK REQUIREMENT FOR PERSONS OWING**
5 **PAST-DUE CHILD SUPPORT.**

6 (a) *IN GENERAL.*—Section 466(a) of the Social Secu-
7 rity Act (42 U.S.C. 666(a)), as amended by sections 12315,
8 12317(a), and 12323 of this Act, is amended by adding at
9 the end the following new paragraph:

10 “(15) *PROCEDURES TO ENSURE THAT PERSONS*
11 *OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN*
12 *FOR PAYMENT OF SUCH SUPPORT.*—

13 “(A) *IN GENERAL.*—Procedures under which
14 the State has the authority, in any case in which
15 an individual owes past-due support with re-
16 spect to a child receiving assistance under a
17 State program funded under part A, to seek a
18 court order that requires the individual to—

19 “(i) pay such support in accordance
20 with a plan approved by the court, or, at
21 the option of the State, a plan approved by
22 the State agency administering the State
23 program under this part; or

24 “(ii) if the individual is subject to such
25 a plan and is not incapacitated, participate

1 *in such work activities (as defined in sec-*
2 *tion 406(d)) as the court, or, at the option*
3 *of the State, the State agency administering*
4 *the State program under this part, deems*
5 *appropriate.*

6 “(B) *PAST-DUE SUPPORT DEFINED.*—*For*
7 *purposes of subparagraph (A), the term ‘past-due*
8 *support’ means the amount of a delinquency, de-*
9 *termined under a court order, or an order of an*
10 *administrative process established under State*
11 *law, for support and maintenance of a child, or*
12 *of a child and the parent with whom the child*
13 *is living.”.*

14 (b) *CONFORMING AMENDMENT.*—*The flush paragraph*
15 *at the end of section 466(a) (42 U.S.C.666(a)) is amended*
16 *by striking “and (7)” and inserting “(7), and (15)”.*

17 ***SEC. 12366. DEFINITION OF SUPPORT ORDER.***

18 *Section 453 (42 U.S.C. 653) as amended by sections*
19 *12316 and 12345(b) of this Act, is amended by adding at*
20 *the end the following new subsection:*

21 “(p) *SUPPORT ORDER DEFINED.*—*As used in this*
22 *part, the term ‘support order’ means a judgment, decree,*
23 *or order, whether temporary, final, or subject to modifica-*
24 *tion, issued by a court or an administrative agency of com-*
25 *petent jurisdiction, for the support and maintenance of a*

1 *child, including a child who has attained the age of major-*
2 *ity under the law of the issuing State, or a child and the*
3 *parent with whom the child is living, which provides for*
4 *monetary support, health care, arrearages, or reimburse-*
5 *ment, and which may include related costs and fees, interest*
6 *and penalties, income withholding, attorneys' fees, and*
7 *other relief.”.*

8 **SEC. 12367. REPORTING ARREARAGES TO CREDIT BUREAUS.**

9 *Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended*
10 *to read as follows:*

11 *“(7) REPORTING ARREARAGES TO CREDIT BU-*
12 *REAUS.—*

13 *“(A) IN GENERAL.—Procedures (subject to*
14 *safeguards pursuant to subparagraph (B)) re-*
15 *quiring the State to report periodically to*
16 *consumer reporting agencies (as defined in sec-*
17 *tion 603(f) of the Fair Credit Reporting Act (15*
18 *U.S.C. 1681a(f)) the name of any noncustodial*
19 *parent who is delinquent in the payment of sup-*
20 *port, and the amount of overdue support owed by*
21 *such parent.*

22 *“(B) SAFEGUARDS.—Procedures ensuring*
23 *that, in carrying out subparagraph (A), infor-*
24 *mation with respect to a noncustodial parent is*
25 *reported—*

1 “(i) only after such parent has been af-
2 fording all due process required under State
3 law, including notice and a reasonable op-
4 portunity to contest the accuracy of such in-
5 formation; and

6 “(ii) only to an entity that has fur-
7 nished evidence satisfactory to the State
8 that the entity is a consumer reporting
9 agency (as so defined).”.

10 **SEC. 12368. LIENS.**

11 Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended
12 to read as follows:

13 “(4) **LIENS.**—Procedures under which—

14 “(A) liens arise by operation of law against
15 real and personal property for amounts of over-
16 due support owed by a noncustodial parent who
17 resides or owns property in the State; and

18 “(B) the State accords full faith and credit
19 to liens described in subparagraph (A) arising in
20 another State, without registration of the under-
21 lying order.”.

1 **SEC. 12369. STATE LAW AUTHORIZING SUSPENSION OF LI-**
2 **CENSES.**

3 *Section 466(a) (42 U.S.C. 666(a)), as amended by sec-*
4 *tions 12315, 12317(a), 12323, and 12365 of this Act, is*
5 *amended by adding at the end the following:*

6 *“(16) AUTHORITY TO WITHHOLD OR SUSPEND*
7 *LICENSES.—Procedures under which the State has*
8 *(and uses in appropriate cases) authority to withhold*
9 *or suspend, or to restrict the use of driver’s licenses,*
10 *professional and occupational licenses, and rec-*
11 *reational licenses of individuals owing overdue sup-*
12 *port or failing, after receiving appropriate notice, to*
13 *comply with subpoenas or warrants relating to pater-*
14 *nity or child support proceedings.”.*

15 **SEC. 12370. INTERNATIONAL CHILD SUPPORT ENFORCE-**
16 **MENT.**

17 *(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—*
18 *Part D of title IV, as amended by section 362(a) of this*
19 *Act, is amended by adding after section 459 the following*
20 *new section:*

21 **“SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCE-**
22 **MENT.**

23 *“(a) AUTHORITY FOR DECLARATIONS.—*

24 *“(1) DECLARATION.—The Secretary of State,*
25 *with the concurrence of the Secretary of Health and*
26 *Human Services, is authorized to declare any foreign*

1 country (or a political subdivision thereof) to be a
2 foreign reciprocating country if the foreign country
3 has established, or undertakes to establish, procedures
4 for the establishment and enforcement of duties of
5 support owed to obligees who are residents of the
6 United States, and such procedures are substantially
7 in conformity with the standards prescribed under
8 subsection (b).

9 “(2) *REVOCATION.*—A declaration with respect
10 to a foreign country made pursuant to paragraph (1)
11 may be revoked if the Secretaries of State and Health
12 and Human Services determine that—

13 “(A) the procedures established by the for-
14 eign nation regarding the establishment and en-
15 forcement of duties of support have been so
16 changed, or the foreign nation’s implementation
17 of such procedures is so unsatisfactory, that such
18 procedures do not meet the criteria for such a
19 declaration; or

20 “(B) continued operation of the declaration
21 is not consistent with the purposes of this part.

22 “(3) *FORM OF DECLARATION.*—A declaration
23 under paragraph (1) may be made in the form of an
24 international agreement, in connection with an inter-

1 *national agreement or corresponding foreign declara-*
2 *tion, or on a unilateral basis.*

3 “(b) *STANDARDS FOR FOREIGN SUPPORT ENFORCE-*
4 *MENT PROCEDURES.—*

5 “(1) *MANDATORY ELEMENTS.—Child support en-*
6 *forcement procedures of a foreign country which may*
7 *be the subject of a declaration pursuant to subsection*
8 *(a)(1) shall include the following elements:*

9 “(A) *The foreign country (or political sub-*
10 *division thereof) has in effect procedures, avail-*
11 *able to residents of the United States—*

12 “(i) *for establishment of paternity, and*
13 *for establishment of orders of support for*
14 *children and custodial parents; and*

15 “(ii) *for enforcement of orders to pro-*
16 *vide support to children and custodial par-*
17 *ents, including procedures for collection and*
18 *appropriate distribution of support pay-*
19 *ments under such orders.*

20 “(B) *The procedures described in subpara-*
21 *graph (A), including legal and administrative*
22 *assistance, are provided to residents of the Unit-*
23 *ed States at no cost.*

1 “(C) *An agency of the foreign country is*
2 *designated as a Central Authority responsible*
3 *for—*

4 “(i) *facilitating child support enforcement in*
5 *cases involving residents of the foreign nation and*
6 *residents of the United States; and*

7 “(ii) *ensuring compliance with the standards es-*
8 *tablished pursuant to this subsection.*

9 “(2) *ADDITIONAL ELEMENTS.—The Secretary of*
10 *Health and Human Services and the Secretary of*
11 *State, in consultation with the States, may establish*
12 *such additional standards as may be considered nec-*
13 *essary to further the purposes of this section.*

14 “(c) *DESIGNATION OF UNITED STATES CENTRAL AU-*
15 *THORITY.—It shall be the responsibility of the Secretary of*
16 *Health and Human Services to facilitate child support en-*
17 *forcement in cases involving residents of the United States*
18 *and residents of foreign nations that are the subject of a*
19 *declaration under this section, by activities including—*

20 “(1) *development of uniform forms and proce-*
21 *dures for use in such cases;*

22 “(2) *notification of foreign reciprocating coun-*
23 *tries of the State of residence of individuals sought for*
24 *support enforcement purposes, on the basis of infor-*

1 *mation provided by the Federal Parent Locator Serv-*
2 *ice; and*

3 *“(3) such other oversight, assistance, and coordi-*
4 *nation activities as the Secretary may find necessary*
5 *and appropriate.*

6 *“(d) EFFECT ON OTHER LAWS.—States may enter*
7 *into reciprocal arrangements for the establishment and en-*
8 *forcement of child support obligations with foreign countries*
9 *that are not the subject of a declaration pursuant to sub-*
10 *section (a), to the extent consistent with Federal law.”.*

11 *(b) STATE PLAN REQUIREMENT.—Section 454 (42*
12 *U.S.C. 654), as amended by sections 12301(b), 12303(a),*
13 *12312(b), 12313(a), 12333, and 12343(b) of this Act, is*
14 *amended—*

15 *(1) by striking “and” at the end of paragraph*
16 *(29);*

17 *(2) by striking the period at the end of para-*
18 *graph (30) and inserting “; and”; and*

19 *(3) by adding after paragraph (30) the following*
20 *new paragraph:*

21 *“(31)(A) provide that any request for services*
22 *under this part by a foreign reciprocating country or*
23 *a foreign country with which the State has an ar-*
24 *angement described in section 459A(d)(2) shall be*
25 *treated as a request by a State;*

1 “(B) provide, at State option, notwithstanding
2 paragraph (4) or any other provision of this part, for
3 services under the plan for enforcement of a spousal
4 support order not described in paragraph (4)(B) en-
5 tered by such a country (or subdivision); and

6 “(C) provide that no applications will be re-
7 quired from, and no costs will be assessed for such
8 services against, the foreign reciprocating country or
9 foreign obligee (but costs may at State option be as-
10 sessed against the obligor).”.

11 **SEC. 12371. FINANCIAL INSTITUTION DATA MATCHES.**

12 Section 466(a) (42 U.S.C. 666(a)), as amended by sec-
13 tions 12315, 12317(a), 12323, 12365, and 12369 of this Act,
14 is amended by adding at the end the following new para-
15 graph:

16 “(17) *FINANCIAL INSTITUTION DATA MATCHES.*—

17 “(A) *IN GENERAL.*—Procedures under which
18 the State agency shall enter into agreements with
19 financial institutions doing business in the
20 State—

21 “(i) to develop and operate, in coordi-
22 nation with such financial institutions, a
23 data match system, using automated data
24 exchanges to the maximum extent feasible,
25 in which each such financial institution is

1 *required to provide for each calendar quar-*
2 *ter the name, record address, social security*
3 *number or other taxpayer identification*
4 *number, and other identifying information*
5 *for each noncustodial parent who maintains*
6 *an account at such institution and who*
7 *owes past-due support, as identified by the*
8 *State by name and social security number*
9 *or other taxpayer identification number;*
10 *and*

11 *“(ii) in response to a notice of lien or*
12 *levy, encumber or surrender, as the case*
13 *may be, assets held by such institution on*
14 *behalf of any noncustodial parent who is*
15 *subject to a child support lien pursuant to*
16 *paragraph (4).*

17 *“(B) REASONABLE FEES.—The State agen-*
18 *cy may pay a reasonable fee to a financial insti-*
19 *tution for conducting the data match provided*
20 *for in subparagraph (A)(i), not to exceed the ac-*
21 *tual costs incurred by such financial institution.*

22 *“(C) LIABILITY.—A financial institution*
23 *shall not be liable under any Federal or State*
24 *law to any person—*

1 “(i) for any disclosure of information
2 to the State agency under subparagraph
3 (A)(i);

4 “(ii) for encumbering or surrendering
5 any assets held by such financial institution
6 in response to a notice of lien or levy issued
7 by the State agency as provided for in sub-
8 paragraph (A)(ii); or

9 “(iii) for any other action taken in
10 good faith to comply with the requirements
11 of subparagraph (A).

12 “(D) DEFINITIONS.—For purposes of this
13 paragraph—

14 “(i) FINANCIAL INSTITUTION.—The
15 term ‘financial institution’ means any Fed-
16 eral or State commercial savings bank, in-
17 cluding savings association or cooperative
18 bank, Federal- or State-chartered credit
19 union, benefit association, insurance com-
20 pany, safe deposit company, money-market
21 mutual fund, or any similar entity author-
22 ized to do business in the State; and

23 “(ii) ACCOUNT.—The term ‘account’
24 means a demand deposit account, checking
25 or negotiable withdrawal order account,

1 *savings account, time deposit account, or*
 2 *money-market mutual fund account.”.*

3 **SEC. 12372. ENFORCEMENT OF ORDERS AGAINST PATERNAL**
 4 **OR MATERNAL GRANDPARENTS IN CASES OF**
 5 **MINOR PARENTS.**

6 Section 466(a) (42 U.S.C. 666(a)), as amended by sec-
 7 tions 12315, 12317(a), 12323, 12365, 12369, and 12371 of
 8 this Act, is amended by adding at the end the following
 9 new paragraph:

10 “(18) *ENFORCEMENT OF ORDERS AGAINST PA-*
 11 *TERNAL OR MATERNAL GRANDPARENTS.—Procedures*
 12 *under which, at the State’s option, any child support*
 13 *order enforced under this part with respect to a child*
 14 *of minor parents, if the custodial parents of such*
 15 *child is receiving assistance under the State program*
 16 *under part A, shall be enforceable, jointly and sever-*
 17 *ally, against the parents of the noncustodial parents*
 18 *of such child.”.*

19 **CHAPTER 8—MEDICAL SUPPORT**

20 **SEC. 12376. CORRECTION TO ERISA DEFINITION OF MEDI-**
 21 **CAL CHILD SUPPORT ORDER.**

22 (a) *IN GENERAL.—Section 609(a)(2)(B) of the Em-*
 23 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*
 24 *1169(a)(2)(B)) is amended—*

1 (1) *by striking “issued by a court of competent*
2 *jurisdiction”;*

3 (2) *by striking the period at the end of clause*
4 *(ii) and inserting a comma; and*

5 (3) *by adding, after and below clause (ii), the*
6 *following:*

7 *“if such judgment, decree, or order (I) is issued*
8 *by a court of competent jurisdiction or (II) is is-*
9 *ssued through an administrative process estab-*
10 *lished under State law and has the force and ef-*
11 *fect of law under applicable State law.”.*

12 (b) *EFFECTIVE DATE.—*

13 (1) *IN GENERAL.—The amendments made by*
14 *this section shall take effect on the date of the enact-*
15 *ment of this Act.*

16 (2) *PLAN AMENDMENTS NOT REQUIRED UNTIL*
17 *JANUARY 1, 1996.—Any amendment to a plan required*
18 *to be made by an amendment made by this section*
19 *shall not be required to be made before the 1st plan*
20 *year beginning on or after January 1, 1996, if—*

21 (A) *during the period after the date before*
22 *the date of the enactment of this Act and before*
23 *such 1st plan year, the plan is operated in ac-*
24 *cordance with the requirements of the amend-*
25 *ments made by this section; and*

1 (B) such plan amendment applies retro-
2 actively to the period after the date before the
3 date of the enactment of this Act and before such
4 1st plan year.

5 A plan shall not be treated as failing to be operated
6 in accordance with the provisions of the plan merely
7 because it operates in accordance with this para-
8 graph.

9 **SEC. 12377. ENFORCEMENT OF ORDERS FOR HEALTH CARE**

10 **COVERAGE.**

11 Section 466(a) (42 U.S.C. 666(a)), as amended by sec-
12 tions 12315, 12317(a), 12323, 12365, 12369, 12371, and
13 12372 of this Act, is amended by adding at the end the
14 following new paragraph:

15 “(19) **HEALTH CARE COVERAGE.**—Procedures
16 under which all child support orders enforced pursu-
17 ant to this part shall include a provision for the
18 health care coverage of the child, and in the case in
19 which a noncustodial parent provides such coverage
20 and changes employment, and the new employer pro-
21 vides health care coverage, the State agency shall
22 transfer notice of the provision to the employer, which
23 notice shall operate to enroll the child in the
24 noncustodial parent’s health plan, unless the
25 noncustodial parent contests the notice.”.

1 **CHAPTER 9—ENHANCING RESPONSIBIL-**
2 **ITY AND OPPORTUNITY FOR NON-RES-**
3 **IDENTIAL PARENTS**

4 **SEC. 12381. GRANTS TO STATES FOR ACCESS AND VISITA-**
5 **TION PROGRAMS.**

6 *Part D of title IV (42 U.S.C. 651–669) is amended*
7 *by adding at the end the following:*

8 **“SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITA-**
9 **TION PROGRAMS.**

10 *“(a) IN GENERAL.—The Administration for Children*
11 *and Families shall make grants under this section to enable*
12 *States to establish and administer programs to support and*
13 *facilitate noncustodial parents’ access to and visitation of*
14 *their children, by means of activities including mediation*
15 *(both voluntary and mandatory), counseling, education, de-*
16 *velopment of parenting plans, visitation enforcement (in-*
17 *cluding monitoring, supervision and neutral drop-off and*
18 *pickup), and development of guidelines for visitation and*
19 *alternative custody arrangements.*

20 *“(b) AMOUNT OF GRANT.—The amount of the grant*
21 *to be made to a State under this section for a fiscal year*
22 *shall be an amount equal to the lesser of—*

23 *“(1) 90 percent of State expenditures during the*
24 *fiscal year for activities described in subsection (a); or*

1 “(2) *the allotment of the State under subsection*
2 *(c) for the fiscal year.*

3 “(c) *ALLOTMENTS TO STATES.—*

4 “(1) *IN GENERAL.—The allotment of a State for*
5 *a fiscal year is the amount that bears the same ratio*
6 *to the amount appropriated for grants under this sec-*
7 *tion for the fiscal year as the number of children in*
8 *the State living with only 1 biological parent bears*
9 *to the total number of such children in all States.*

10 “(2) *MINIMUM ALLOTMENT.—The Administra-*
11 *tion for Children and Families shall adjust allotments*
12 *to States under paragraph (1) as necessary to ensure*
13 *that no State is allotted less than—*

14 “(A) *\$50,000 for fiscal year 1996 or 1997;*

15 *or*

16 “(B) *\$100,000 for any succeeding fiscal*
17 *year.*

18 “(d) *NO SUPPLANTATION OF STATE EXPENDITURES*
19 *FOR SIMILAR ACTIVITIES.—A State to which a grant is*
20 *made under this section may not use the grant to supplant*
21 *expenditures by the State for activities specified in sub-*
22 *section (a), but shall use the grant to supplement such ex-*
23 *penditures at a level at least equal to the level of such ex-*
24 *penditures for fiscal year 1995.*

1 “(e) *STATE ADMINISTRATION.*—*Each State to which a*
2 *grant is made under this section—*

3 “(1) *may administer State programs funded*
4 *with the grant, directly or through grants to or con-*
5 *tracts with courts, local public agencies, or non-profit*
6 *private entities;*

7 “(2) *shall not be required to operate such pro-*
8 *grams on a statewide basis; and*

9 “(3) *shall monitor, evaluate, and report on such*
10 *programs in accordance with regulations prescribed*
11 *by the Secretary.”.*

12 **CHAPTER 10—EFFECT OF ENACTMENT**

13 **SEC. 12391. EFFECTIVE DATES.**

14 “(a) *IN GENERAL.*—*Except as otherwise specifically*
15 *provided (but subject to subsections (b) and (c))—*

16 “(1) *the provisions of this subtitle requiring the*
17 *enactment or amendment of State laws under section*
18 *466 of the Social Security Act, or revision of State*
19 *plans under section 454 of such Act, shall be effective*
20 *with respect to periods beginning on and after Octo-*
21 *ber 1, 1996; and*

22 “(2) *all other provisions of this subtitle shall be-*
23 *come effective upon the date of the enactment of this*
24 *Act.*

1 (b) *GRACE PERIOD FOR STATE LAW CHANGES.*—The
2 *provisions of this subtitle shall become effective with respect*
3 *to a State on the later of—*

4 (1) *the date specified in this subtitle, or*

5 (2) *the effective date of laws enacted by the legis-*
6 *lature of such State implementing such provisions,*

7 *but in no event later than the 1st day of the 1st calendar*
8 *quarter beginning after the close of the 1st regular session*
9 *of the State legislature that begins after the date of the en-*
10 *actment of this Act. For purposes of the previous sentence,*
11 *in the case of a State that has a 2-year legislative session,*
12 *each year of such session shall be deemed to be a separate*
13 *regular session of the State legislature.*

14 (c) *GRACE PERIOD FOR STATE CONSTITUTIONAL*
15 *AMENDMENT.*—A State shall not be found out of compliance
16 *with any requirement enacted by this subtitle if the State*
17 *is unable to so comply without amending the State constitu-*
18 *tion until the earlier of—*

19 (1) *1 year after the effective date of the necessary*
20 *State constitutional amendment; or*

21 (2) *5 years after the date of the enactment of this*
22 *Act.*

1 ***Subtitle D—Restricting Welfare and***
2 ***Public Benefits for Aliens***

3 ***CHAPTER 1—ELIGIBILITY FOR FEDERAL***
4 ***BENEFITS***

5 ***SEC. 12401. ALIENS WHO ARE NOT QUALIFIED ALIENS IN-***
6 ***ELIGIBLE FOR FEDERAL PUBLIC BENEFITS.***

7 *(a) IN GENERAL.—Notwithstanding any other provi-*
8 *sion of law and except as provided in subsection (b), an*
9 *alien who is not a qualified alien (as defined section 12431)*
10 *is not eligible for any Federal public benefit (as defined in*
11 *subsection (c)).*

12 *(b) EXCEPTIONS.—Subsection (a) shall not apply with*
13 *respect to the following Federal public benefits:*

14 *(1) Emergency medical services under title XIX*
15 *or XXI of the Social Security Act.*

16 *(2) Short-term, non-cash, in-kind emergency dis-*
17 *aster relief.*

18 *(3)(A) Public health assistance for immuniza-*
19 *tions.*

20 *(B) Public health assistance for testing and*
21 *treatment of a serious communicable disease if*
22 *the Secretary of Health and Human Services de-*
23 *termines that it is necessary to prevent the*
24 *spread of such disease.*

1 (4) *Programs, services, or assistance (such as*
2 *soup kitchens, crisis counseling and intervention, and*
3 *short-term shelter) specified by the Attorney General,*
4 *in the Attorney General’s sole and unreviewable dis-*
5 *cretion after consultation with appropriate Federal*
6 *agencies and departments, which (A) deliver in-kind*
7 *services at the community level, including through*
8 *public or private nonprofit agencies; (B) do not con-*
9 *dition the provision of assistance, the amount of as-*
10 *sistance provided, or the cost of assistance provided*
11 *on the individual recipient’s income or resources; and*
12 *(C) are necessary for the protection of life or safety.*

13 (5) *Programs for housing or community develop-*
14 *ment assistance or financial assistance administered*
15 *by the Secretary of Housing and Urban Development,*
16 *any program under title V of the Housing Act of*
17 *1949, or any assistance under section 306C of the*
18 *Consolidated Farm and Rural Development Act, to*
19 *the extent that the alien is receiving such a benefit on*
20 *the date of the enactment of this Act.*

21 (c) *FEDERAL PUBLIC BENEFIT DEFINED.—*

22 (1) *Except as provided in paragraph (2), for*
23 *purposes of this subtitle the term “Federal public ben-*
24 *efit” means a Federal public benefit providing direct*
25 *spending for—*

1 (A) any grant, contract, loan, professional
2 license, or commercial license provided by an
3 agency of the United States or by appropriated
4 funds of the United States; and

5 (B) any retirement, welfare, health, disabil-
6 ity, public or assisted housing, post-secondary
7 education, food assistance, unemployment bene-
8 fit, or any other similar benefit for which pay-
9 ments or assistance are provided to an individ-
10 ual, household, or family eligibility unit by an
11 agency of the United States or by appropriated
12 funds of the United States.

13 (2) Such term shall not apply—

14 (A) to any contract, professional license, or
15 commercial license for a nonimmigrant whose
16 visa for entry is related to such employment in
17 the United States; or

18 (B) with respect to benefits for an alien who
19 as a work authorized nonimmigrant or as an
20 alien lawfully admitted for permanent residence
21 under the Immigration and Nationality Act
22 qualified for such benefits and for whom the
23 United States under reciprocal treaty agreements
24 is required to pay benefits, as determined by the

1 *Attorney General, after consultation with the*
2 *Secretary of State.*

3 **SEC. 12402. LIMITED ELIGIBILITY OF CERTAIN QUALIFIED**
4 **ALIENS FOR CERTAIN FEDERAL PROGRAMS.**

5 *(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL*
6 *PROGRAMS.—*

7 *(1) IN GENERAL.—Notwithstanding any other*
8 *provision of law and except as provided in paragraph*
9 *(2), an alien who is a qualified alien (as defined in*
10 *section 12431) is not eligible for any specified Federal*
11 *program (as defined in paragraph (3)).*

12 *(2) EXCEPTIONS.—*

13 *(A) TIME-LIMITED EXCEPTION FOR REFU-*
14 *GEES AND ASYLEES.—Paragraph (1) shall not*
15 *apply to an alien until 5 years after the date—*

16 *(i) an alien is admitted to the United*
17 *States as a refugee under section 207 of the*
18 *Immigration and Nationality Act;*

19 *(ii) an alien is granted asylum under*
20 *section 208 of such Act; or*

21 *(iii) an alien's deportation is withheld*
22 *under section 243(h) of such Act.*

23 *(B) CERTAIN PERMANENT RESIDENT*
24 *ALIENS.—Paragraph (1) shall not apply to an*
25 *alien who—*

1 *(i) is lawfully admitted to the United*
2 *States for permanent residence under the*
3 *Immigration and Nationality Act; and*

4 *(ii)(I) has worked 40 qualifying quar-*
5 *ters of coverage as defined under title II of*
6 *the Social Security Act, and (II) did not re-*
7 *ceive any Federal means-tested public bene-*
8 *fit (as defined in section 12403(c)) during*
9 *any such quarter.*

10 (C) *VETERAN AND ACTIVE DUTY EXCEP-*
11 *TION.—Paragraph (1) shall not apply to an*
12 *alien who is lawfully residing in any State and*
13 *is—*

14 *(i) a veteran (as defined in section 101*
15 *of title 38, United States Code) with a dis-*
16 *charge characterized as an honorable dis-*
17 *charge and not on account of alienage,*

18 *(ii) on active duty (other than active*
19 *duty for training) in the Armed Forces of*
20 *the United States, or*

21 *(iii) the spouse or unmarried depend-*
22 *ent child of an individual described in*
23 *clause (i) or (ii).*

24 (D) *TRANSITION FOR ALIENS CURRENTLY*
25 *RECEIVING BENEFITS.—Paragraph (1) shall*

1 *apply to the eligibility of an alien for a program*
2 *for months beginning on or after January 1,*
3 *1997, if, on the date of the enactment of this Act,*
4 *the alien is lawfully residing in any State and*
5 *is receiving benefits under such program on the*
6 *date of the enactment of this Act.*

7 (3) *SPECIFIED FEDERAL PROGRAM DEFINED.—*
8 *For purposes of this subtitle, the term “specified Fed-*
9 *eral program” means any of the following:*

10 (A) *SSI.—The supplemental security in-*
11 *come program under title XVI of the Social Se-*
12 *curity Act.*

13 (B) *FOOD STAMPS.—The food stamp pro-*
14 *gram as defined in section 3(h) of the Food*
15 *Stamp Act of 1977.*

16 (b) *LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL*
17 *PROGRAMS.—*

18 (1) *IN GENERAL.—Notwithstanding any other*
19 *provision of law and except as provided in section*
20 *12403 and paragraph (2), a State is authorized to de-*
21 *termine the eligibility of an alien who is a qualified*
22 *alien (as defined in section 12431) for any designated*
23 *Federal program (as defined in paragraph (3)).*

1 (2) *EXCEPTIONS.*—*Qualified aliens under this*
2 *paragraph shall be eligible for any designated Federal*
3 *program.*

4 (A) *TIME-LIMITED EXCEPTION FOR REFUGEEES AND ASYLEES.*—

5
6 (i) *An alien who is admitted to the*
7 *United States as a refugee under section*
8 *207 of the Immigration and Nationality*
9 *Act until 5 years after the date of an alien’s*
10 *entry into the United States.*

11 (ii) *An alien who is granted asylum*
12 *under section 208 of such Act until 5 years*
13 *after the date of such grant of asylum.*

14 (iii) *An alien whose deportation is*
15 *being withheld under section 243(h) of such*
16 *Act until 5 years after such withholding.*

17 (B) *CERTAIN PERMANENT RESIDENT*
18 *ALIENS.*—*An alien who—*

19 (i) *is lawfully admitted to the United*
20 *States for permanent residence under the*
21 *Immigration and Nationality Act; and*

22 (ii) *(I) has worked 40 qualifying quar-*
23 *ters of coverage to be a fully insured indi-*
24 *vidual for old-age retirement benefits under*
25 *title II of the Social Security Act, (II) did*

1 *not receive any Federal means-tested public*
2 *benefit (as defined in section 12403(c)) dur-*
3 *ing any such quarter, and (III) at the time*
4 *of application is otherwise eligible for such*
5 *benefits.*

6 (C) *VETERAN AND ACTIVE DUTY EXCEP-*
7 *TION.—An alien who is lawfully residing in any*
8 *State and is—*

9 (i) *a veteran (as defined in section 101*
10 *of title 38, United States Code) with a dis-*
11 *charge characterized as an honorable dis-*
12 *charge and not on account of alienage,*

13 (ii) *on active duty (other than active*
14 *duty for training) in the Armed Forces of*
15 *the United States, or*

16 (iii) *the spouse or unmarried depend-*
17 *ent child of an individual described in*
18 *clause (i) or (ii).*

19 (D) *TRANSITION FOR THOSE CURRENTLY*
20 *RECEIVING BENEFITS.—An alien who on the date*
21 *of the enactment of this Act is lawfully residing*
22 *in any State and is receiving benefits under such*
23 *program on the date of the enactment of this Act*
24 *shall continue to be eligible to receive such bene-*
25 *fits until January 1, 1997.*

1 (3) *DESIGNATED FEDERAL PROGRAM DE-*
2 *FINED.*—For purposes of this subtitle, the term “des-
3 *ignated Federal program*” means any of the follow-
4 *ing:*

5 (A) *TEMPORARY ASSISTANCE FOR NEEDY*
6 *FAMILIES.*—The program of block grants to
7 *States for temporary assistance for needy fami-*
8 *lies under part A of title IV of the Social Secu-*
9 *rity Act.*

10 (B) *SOCIAL SERVICES BLOCK GRANT.*—The
11 *program of block grants to States for social serv-*
12 *ices under title XX of the Social Security Act.*

13 (C) *MEDICAID AND MEDIGRANT.*—The pro-
14 *gram of medical assistance under title XIX and*
15 *XXI of the Social Security Act.*

16 ***SEC. 12403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED***
17 ***ALIENS FOR FEDERAL MEANS-TESTED PUB-***
18 ***LIC BENEFIT.***

19 (a) *IN GENERAL.*—Notwithstanding any other provi-
20 *sion of law and except as provided in subsection (b), an*
21 *alien who is a qualified alien (as defined in section 12431)*
22 *and who enters the United States on or after the date of*
23 *the enactment of this Act is not eligible for any Federal*
24 *means-tested public benefit (as defined in subsection (c)) for*
25 *a period of five years beginning on the date of the alien’s*

1 *entry into the United States with a status within the mean-*
2 *ing of the term “qualified alien”.*

3 (b) *EXCEPTIONS.—The limitation under subsection (a)*
4 *shall not apply to the following aliens:*

5 (1) *EXCEPTION FOR REFUGEES AND ASYLEES.—*

6 (A) *An alien who is admitted to the United*
7 *States as a refugee under section 207 of the Im-*
8 *migration and Nationality Act.*

9 (B) *An alien who is granted asylum under*
10 *section 208 of such Act.*

11 (C) *An alien whose deportation is being*
12 *withheld under section 243(h) of such Act.*

13 (2) *VETERAN AND ACTIVE DUTY EXCEPTION.—An*
14 *alien who is lawfully residing in any State and is—*

15 (A) *a veteran (as defined in section 101 of*
16 *title 38, United States Code) with a discharge*
17 *characterized as an honorable discharge and not*
18 *on account of alienage,*

19 (B) *on active duty (other than active duty*
20 *for training) in the Armed Forces of the United*
21 *States, or*

22 (C) *the spouse or unmarried dependent*
23 *child of an individual described in subparagraph*
24 *(A) or (B).*

1 (c) *FEDERAL MEANS-TESTED PUBLIC BENEFIT DE-*
2 *FINED.*—

3 (1) *Except as provided in paragraph (2), for*
4 *purposes of this subtitle, the term “Federal means-*
5 *tested public benefit” means a Federal public benefit*
6 *providing direct spending (including cash, medical,*
7 *housing, and food assistance and social services) by*
8 *the Federal Government in which the eligibility of an*
9 *individual, household, or family eligibility unit for*
10 *benefits, or the amount of such benefits, or both are*
11 *determined on the basis of income, resources, or fi-*
12 *nancial need of the individual, household, or unit.*

13 (2) *Such term does not include the following:*

14 (A) *Emergency medical services under title*
15 *XIX or XXI of the Social Security Act.*

16 (B) *Short-term, non-cash, in-kind emer-*
17 *gency disaster relief.*

18 (C) *Assistance or benefits under the Na-*
19 *tional School Lunch Act.*

20 (D) *Assistance or benefits under the Child*
21 *Nutrition Act of 1966.*

22 (E)(i) *Public health assistance for immuni-*
23 *zations.*

24 (ii) *Public health assistance for testing*
25 *and treatment of a serious communicable*

1 disease if the Secretary of Health and
2 Human Services determines that it is nec-
3 essary to prevent the spread of such disease.

4 (F) Payments for foster care and adoption
5 assistance under part B of title IV of the Social
6 Security Act for a child who would, in the ab-
7 sence of subsection (a), be eligible to have such
8 payments made on the child's behalf under such
9 part, but only if the foster or adoptive parent or
10 parents of such child are not described under
11 subsection (a).

12 (G) Programs, services, or assistance (such
13 as soup kitchens, crisis counseling and interven-
14 tion, and short-term shelter) specified by the At-
15 torney General, in the Attorney General's sole
16 and unreviewable discretion after consultation
17 with appropriate Federal agencies and depart-
18 ments, which (i) deliver in-kind services at the
19 community level, including through public or
20 private nonprofit agencies; (ii) do not condition
21 the provision of assistance, the amount of assist-
22 ance provided, or the cost of assistance provided
23 on the individual recipient's income or resources;
24 and (iii) are necessary for the protection of life
25 or safety.

1 (H) Programs of student assistance under
2 titles IV, V, IX, and X of the Higher Education
3 Act of 1965.

4 (I) Means-tested programs under the Ele-
5 mentary and Secondary Education Act of 1965.

6 **CHAPTER 2—ATTRIBUTION OF INCOME**
7 **AND AFFIDAVITS OF SUPPORT**

8 **SEC. 12421. ATTRIBUTION OF SPONSOR'S INCOME AND RE-**
9 **SOURCES TO ALIEN.**

10 (a) *IN GENERAL.*—Notwithstanding any other provi-
11 sion of law and except as provided in subsection (c), in
12 determining the eligibility and the amount of benefits of
13 an alien for any means-tested public benefits program (as
14 defined in subsection (e)) the income and resources of the
15 alien shall be deemed to include the following:

16 (1) *The income and resources of any person who*
17 *executed an affidavit of support pursuant to section*
18 *213A of the Immigration and Nationality Act (as*
19 *added by section 12422) in behalf of such alien.*

20 (2) *The income and resources of the spouse (if*
21 *any) of the person.*

22 (b) *APPLICATION.*—Subsection (a) shall apply with re-
23 spect to an alien until such time as the alien achieves Unit-
24 ed States citizenship through naturalization pursuant to

1 *chapter 2 of title III of the Immigration and Nationality*
2 *Act.*

3 (c) *EXCEPTIONS.*—*Subsection (a) shall not apply with*
4 *respect to the following Federal public benefits:*

5 (1) *Emergency medical services under title XIX*
6 *or XXI of the Social Security Act.*

7 (2) *Short-term, non-cash, in-kind emergency dis-*
8 *aster relief.*

9 (3) *Assistance or benefits under the National*
10 *School Lunch Act.*

11 (4) *Assistance or benefits under the Child Nutri-*
12 *tion Act of 1966.*

13 (5)(A) *Public health assistance for immuniza-*
14 *tions.*

15 (B) *Public health assistance for testing and*
16 *treatment of a serious communicable disease if*
17 *the Secretary of Health and Human Services de-*
18 *termines that it is necessary to prevent the*
19 *spread of such disease.*

20 (6) *Payments for foster care and adoption assist-*
21 *ance under part B of title IV of the Social Security*
22 *Act for a child who would, in the absence of sub-*
23 *section (a), be eligible to have such payments made on*
24 *the child's behalf under such part, but only if the fos-*

1 *ter or adoptive parent or parents of such child are not*
2 *described under subsection (a).*

3 *(7) Programs, services, or assistance (such as*
4 *soup kitchens, crisis counseling and intervention, and*
5 *short-term shelter) specified by the Attorney General,*
6 *in the Attorney General's sole and unreviewable dis-*
7 *cretion after consultation with appropriate Federal*
8 *agencies and departments, which (A) deliver in-kind*
9 *services at the community level, including through*
10 *public or private nonprofit agencies; (B) do not con-*
11 *dition the provision of assistance, the amount of as-*
12 *sistance provided, or the cost of assistance provided*
13 *on the individual recipient's income or resources; and*
14 *(C) are necessary for the protection of life or safety.*

15 *(8) Programs of student assistance under titles*
16 *IV, V, IX, and X of the Higher Education Act of*
17 *1965.*

18 *(d) REVIEW OF INCOME AND RESOURCES OF ALIEN*
19 *UPON REAPPLICATION.—Whenever an alien is required to*
20 *reapply for benefits under any means-tested public benefits*
21 *program, the applicable agency shall review the income and*
22 *resources attributed to the alien under subsection (a).*

23 *(e) MEANS-TESTED PUBLIC BENEFITS PROGRAM DE-*
24 *FINED.—The term “means-tested public benefits program”*
25 *means a program of Federal public benefits providing di-*

1 *rect spending (including cash, medical, housing, and food*
2 *assistance and social services) by the Federal government*
3 *in which the eligibility of an individual, household, or fam-*
4 *ily eligibility unit for benefits, or the amount of such bene-*
5 *fits, or both are determined on the basis of income, re-*
6 *sources, or financial need of the individual, household, or*
7 *unit.*

8 (f) *APPLICATION.—*

9 (1) *If on the date of the enactment of this Act,*
10 *a means-tested public benefits program attributes a*
11 *sponsor's income and resources to an alien in deter-*
12 *mining the alien's eligibility and the amount of bene-*
13 *fits for an alien, this section shall apply to any such*
14 *determination beginning on the day after the date of*
15 *the enactment of this Act.*

16 (2) *If on the date of the enactment of this Act,*
17 *a means-tested public benefits program does not at-*
18 *tribute a sponsor's income and resources to an alien*
19 *in determining the alien's eligibility and the amount*
20 *of benefits for an alien, this section shall apply to any*
21 *such determination beginning 180 days after the date*
22 *of the enactment of this Act.*

1 **SEC. 12422. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**
2 **SUPPORT.**

3 (a) *IN GENERAL.*—Title II of the Immigration and
4 Nationality Act is amended by inserting after section 213
5 the following new section:

6 “REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

7 “SEC. 213A. (a) *ENFORCEABILITY.*—(1) No affidavit
8 of support may be accepted by the Attorney General or by
9 any consular officer to establish that an alien is not exclud-
10 able as a public charge under section 212(a)(4) unless such
11 affidavit is executed as a contract—

12 “(A) which is legally enforceable against the
13 sponsor by the sponsored alien, the Federal Govern-
14 ment, and by any State (or any political subdivision
15 of such State) which provides any means-tested public
16 benefits program, but not later than 10 years after the
17 alien last receives any such benefit;

18 “(B) in which the sponsor agrees to financially
19 support the alien, so that the alien will not become
20 a public charge; and

21 “(C) in which the sponsor agrees to submit to the
22 jurisdiction of any Federal or State court for the pur-
23 pose of actions brought under subsection (e)(2).

24 “(2) A contract under paragraph (1) shall be enforce-
25 able with respect to benefits provided to the alien until such

1 *time as the alien achieves United States citizenship through*
2 *naturalization pursuant to chapter 2 of title III.*

3 “(b) *FORMS.*—*Not later than 90 days after the date*
4 *of enactment of this section, the Attorney General, in con-*
5 *sultation with the Secretary of State and the Secretary of*
6 *Health and Human Services, shall formulate an affidavit*
7 *of support consistent with the provisions of this section.*

8 “(c) *REMEDIES.*—*Remedies available to enforce an af-*
9 *fidavit of support under this section include any or all of*
10 *the remedies described in section 3201, 3203, 3204, or 3205*
11 *of title 28, United States Code, as well as an order for spe-*
12 *cific performance and payment of legal fees and other costs*
13 *of collection, and include corresponding remedies available*
14 *under State law. A Federal agency may seek to collect*
15 *amounts owed under this section in accordance with the*
16 *provisions of subchapter II of chapter 37 of title 31, United*
17 *States Code.*

18 “(d) *NOTIFICATION OF CHANGE OF ADDRESS.*—

19 “(1) *IN GENERAL.*—*The sponsor shall notify the*
20 *Attorney General and the State in which the spon-*
21 *sored alien is currently resident within 30 days of*
22 *any change of address of the sponsor during the pe-*
23 *riod specified in subsection (a)(2).*

1 “(2) *PENALTY.*—Any person subject to the re-
2 *quirement of paragraph (1) who fails to satisfy such*
3 *requirement shall be subject to a civil penalty of—*

4 “(A) *not less than \$250 or more than*
5 *\$2,000, or*

6 “(B) *if such failure occurs with knowledge*
7 *that the alien has received any means-tested pub-*
8 *lic benefit, not less than \$2,000 or more than*
9 *\$5,000.*

10 “(e) *REIMBURSEMENT OF GOVERNMENT EXPENSES.*—

11 (1)(A) *Upon notification that a sponsored alien has re-*
12 *ceived any benefit under any means-tested public benefits*
13 *program, the appropriate Federal, State, or local official*
14 *shall request reimbursement by the sponsor in the amount*
15 *of such assistance.*

16 “(B) *The Attorney General, in consultation with the*
17 *Secretary of Health and Human Services, shall prescribe*
18 *such regulations as may be necessary to carry out subpara-*
19 *graph (A).*

20 “(2) *If within 45 days after requesting reimbursement,*
21 *the appropriate Federal, State, or local agency has not re-*
22 *ceived a response from the sponsor indicating a willingness*
23 *to commence payments, an action may be brought against*
24 *the sponsor pursuant to the affidavit of support.*

1 “(3) *If the sponsor fails to abide by the repayment*
2 *terms established by such agency, the agency may, within*
3 *60 days of such failure, bring an action against the sponsor*
4 *pursuant to the affidavit of support.*

5 “(4) *No cause of action may be brought under this sub-*
6 *section later than 10 years after the alien last received any*
7 *benefit under any means-tested public benefits program.*

8 “(5) *If, pursuant to the terms of this subsection, a Fed-*
9 *eral, State, or local agency requests reimbursement from the*
10 *sponsor in the amount of assistance provided, or brings an*
11 *action against the sponsor pursuant to the affidavit of sup-*
12 *port, the appropriate agency may appoint or hire an indi-*
13 *vidual or other person to act on behalf of such agency acting*
14 *under the authority of law for purposes of collecting any*
15 *moneys owed. Nothing in this subsection shall preclude any*
16 *appropriate Federal, State, or local agency from directly*
17 *requesting reimbursement from a sponsor for the amount*
18 *of assistance provided, or from bringing an action against*
19 *a sponsor pursuant to an affidavit of support.*

20 “(f) *DEFINITIONS.—For the purposes of this section—*

21 “(1) *SPONSOR.—The term ‘sponsor’ means an*
22 *individual who—*

23 “(A) *is a citizen or national of the United*
24 *States or an alien who is lawfully admitted to*
25 *the United States for permanent residence;*

1 “(B) is 18 years of age or over;

2 “(C) is domiciled in any State; and

3 “(D) is the person petitioning for the ad-
4 mission of the alien under section 204.

5 “(2) *MEANS-TESTED PUBLIC BENEFITS PROGRAM*
6 *DEFINED.*—*The term ‘means-tested public benefits*
7 *program’ means a program of Federal public benefits*
8 *providing direct spending (including cash, medical,*
9 *housing, and food assistance and social services) by*
10 *the Federal Government in which the eligibility of an*
11 *individual, household, or family eligibility unit for*
12 *benefits, or the amount of such benefits, or both are*
13 *determined on the basis of income, resources, or fi-*
14 *nancial need of the individual, household, or unit.”.*

15 **(b) CLERICAL AMENDMENT.**—*The table of contents of*
16 *such Act is amended by inserting after the item relating*
17 *to section 213 the following:*

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

18 **(c) EFFECTIVE DATE.**—*Subsection (a) of section 213A*
19 *of the Immigration and Nationality Act, as inserted by sub-*
20 *section (a) of this section, shall apply to affidavits of sup-*
21 *port executed on or after a date specified by the Attorney*
22 *General, which date shall be not earlier than 60 days (and*
23 *not later than 90 days) after the date the Attorney General*
24 *formulates the form for such affidavits under subsection (b)*
25 *of such section.*

1 (d) *BENEFITS NOT SUBJECT TO REIMBURSEMENT.*—
2 *Requirements for reimbursement by a sponsor for benefits*
3 *provided to a sponsored alien pursuant to an affidavit of*
4 *support under section 213A of the Immigration and Na-*
5 *tionality Act shall not apply with respect to the following:*

6 (1) *Emergency medical services under title XIX*
7 *or XXI of the Social Security Act.*

8 (2) *Short-term, non-cash, in-kind emergency dis-*
9 *aster relief.*

10 (3) *Assistance or benefits under the National*
11 *School Lunch Act.*

12 (4) *Assistance or benefits under the Child Nutri-*
13 *tion Act of 1966.*

14 (5)(A) *Public health assistance for immuniza-*
15 *tions.*

16 (B) *Public health assistance for testing and*
17 *treatment of a serious communicable disease if the*
18 *Secretary of Health and Human Services determines*
19 *that it is necessary to prevent the spread of such dis-*
20 *ease.*

21 (6) *Payments for foster care and adoption assist-*
22 *ance under part B of title IV of the Social Security*
23 *Act for a child who would, in the absence of sub-*
24 *section (a), be eligible to have such payments made on*
25 *the child's behalf under such part, but only if the fos-*

1 *ter or adoptive parent or parents of such child are not*
2 *described under subsection (a).*

3 *(7) Programs, services, or assistance (such as*
4 *soup kitchens, crisis counseling and intervention, and*
5 *short-term shelter) specified by the Attorney General,*
6 *in the Attorney General's sole and unreviewable dis-*
7 *cretion after consultation with appropriate Federal*
8 *agencies and departments, which (A) deliver in-kind*
9 *services at the community level, including through*
10 *public or private nonprofit agencies; (B) do not con-*
11 *dition the provision of assistance, the amount of as-*
12 *sistance provided, or the cost of assistance provided*
13 *on the individual recipient's income or resources; and*
14 *(C) are necessary for the protection of life or safety.*

15 *(8) Programs of student assistance under titles*
16 *IV, V, IX, and X of the Higher Education Act of*
17 *1965.*

18 **SEC. 12423. COSIGNATURE OF ALIEN STUDENT LOANS.**

19 *Section 484(b) of the Higher Education Act of 1965*
20 *(20 U.S.C. 1091(b)) is amended by adding at the end the*
21 *following new paragraph:*

22 *“(6) Notwithstanding sections 427(a)(2)(C),*
23 *428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student*
24 *who is an alien lawfully admitted for permanent resi-*
25 *dence under the Immigration and Nationality Act*

1 *shall not be eligible for a loan under this title unless*
2 *the loan is endorsed and cosigned by the alien’s spon-*
3 *sor under section 213A of the Immigration and Na-*
4 *tionality Act or by another individual who is a Unit-*
5 *ed States citizen.”.*

6 **CHAPTER 3—GENERAL PROVISIONS**

7 **SEC. 12431. DEFINITIONS.**

8 (a) *IN GENERAL.*—*Except as otherwise provided in*
9 *this subtitle, the terms used in this subtitle have the same*
10 *meaning given such terms in section 101(a) of the Immigra-*
11 *tion and Nationality Act.*

12 (b) *QUALIFIED ALIEN.*—*For purposes of this subtitle,*
13 *the term “qualified alien” means an alien who, at the time*
14 *the alien applies for, receives, or attempts to receive a Fed-*
15 *eral public benefit, is—*

16 (1) *an alien who is lawfully admitted for perma-*
17 *nent residence under the Immigration and National-*
18 *ity Act,*

19 (2) *an alien who is granted asylum under sec-*
20 *tion 208 of such Act,*

21 (3) *a refugee who is admitted to the United*
22 *States under section 207 of such Act,*

23 (4) *an alien who is paroled into the United*
24 *States under section 212(d)(5) of such Act for a pe-*
25 *riod of at least 1 year,*

1 (5) *an alien whose deportation is being withheld*
2 *under section 243(h) of such Act, or*

3 (6) *an alien who is granted conditional entry*
4 *pursuant to section 203(a)(7) of such Act as in effect*
5 *prior to April 1, 1980.*

6 **SEC. 12432. REAPPLICATION FOR SSI BENEFITS.**

7 (a) *APPLICATION AND NOTICE.*—*Notwithstanding any*
8 *other provision of law, in the case of an individual who*
9 *is receiving supplemental security income benefits under*
10 *title XVI of the Social Security Act as of the date of the*
11 *enactment of this Act and whose eligibility for such benefits*
12 *would terminate by reason of the application of section*
13 *12402(a)(2)(D), the Commissioner of Social Security shall*
14 *so notify the individual not later than 90 days after the*
15 *date of the enactment of this Act.*

16 (b) *REAPPLICATION.*—

17 (1) *IN GENERAL.*—*Not later than 120 days after*
18 *the date of the enactment of this Act, each individual*
19 *notified pursuant to subsection (a) who desires to re-*
20 *apply for benefits under title XVI of the Social Secu-*
21 *urity Act shall reapply to the Commissioner of Social*
22 *Security.*

23 (2) *DETERMINATION OF ELIGIBILITY.*—*Not later*
24 *than 1 year after the date of the enactment of this*
25 *Act, the Commissioner of Social Security shall deter-*

1 *mine the eligibility of each individual who reapplies*
2 *for benefits under paragraph (1) pursuant to the pro-*
3 *cedures of such title XVI.*

4 **SEC. 12433. STATUTORY CONSTRUCTION.**

5 (a) *LIMITATION.—*

6 (1) *Nothing in this subtitle may be construed as*
7 *an entitlement or a determination of an individual's*
8 *eligibility or fulfillment of the requisite requirements*
9 *for any Federal, State, or local governmental pro-*
10 *gram, assistance, or benefits. For purposes of this sub-*
11 *title, eligibility relates only to the general issue of eli-*
12 *gibility or ineligibility on the basis of alienage.*

13 (2) *Nothing in this subtitle may be construed as*
14 *addressing alien eligibility for a basic public edu-*
15 *cation as determined by the Supreme Court of the*
16 *United States under Plyler v. Doe (457 U.S.*
17 *202)(1982).*

18 (b) *NOT APPLICABLE TO FOREIGN ASSISTANCE.—This*
19 *subtitle does not apply to any Federal, State, or local gov-*
20 *ernmental program, assistance, or benefits provided to an*
21 *alien under any program of foreign assistance as deter-*
22 *mined by the Secretary of State in consultation with the*
23 *Attorney General.*

24 (c) *SEVERABILITY.—If any provision of this subtitle*
25 *or the application of such provision to any person or cir-*

1 *cumstance is held to be unconstitutional, the remainder of*
 2 *this subtitle and the application of the provisions of such*
 3 *to any person or circumstance shall not be affected thereby.*

4 ***Subtitle E—Teaching Hospital and***
 5 ***Graduate Medical Education***
 6 ***Trust Fund***

7 ***CHAPTER 1—TRUST FUND***

8 ***SEC. 12501. ESTABLISHMENT OF FUND; PAYMENTS TO***
 9 ***TEACHING HOSPITALS.***

10 *The Social Security Act (42 U.S.C. 300 et seq.) is*
 11 *amended by adding after title XXI the following title:*

12 ***“TITLE XXII—TEACHING HOSPITAL AND***
 13 ***GRADUATE MEDICAL EDUCATION TRUST FUND***

14 ***“TABLE OF CONTENTS OF TITLE***

“PART A—ESTABLISHMENT OF FUND

“Sec. 2201. Establishment of Fund.

“PART B—PAYMENTS TO TEACHING HOSPITALS

“Subpart 1—Requirement of Payments

“Sec. 2211. Formula payments to teaching hospitals.

“Sec. 2212. Additional provisions regarding annual payment document.

“Subpart 2—Amount Relating to MedicarePlus Program

“Sec. 2221. Determination of amount relating to MedicarePlus program.

***“Subpart 3—Amount Relating to Indirect Costs of Graduate Medical
Education***

“Sec. 2231. Determination of amount relating to indirect costs.

***“Sec. 2232. Indirect costs; special rules regarding payments from general ac-
count.***

“Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education

“Sec. 2241. Determination of amount relating to direct costs.

“Sec. 2242. Direct costs; special rules regarding payments from general account.

“Sec. 2243. Direct costs; authority for payments to consortia of providers.

1 *“PART A—ESTABLISHMENT OF FUND*

2 ***“SEC. 2201. ESTABLISHMENT OF FUND.***

3 *“(a) IN GENERAL.—There is established in the Treas-*
 4 *ury of the United States a fund to be known as the Teaching*
 5 *Hospital and Graduate Medical Education Trust Fund (in*
 6 *this title referred to as the ‘Fund’), consisting of amounts*
 7 *appropriated to the Fund in subsections (d), (f)(3), and (g),*
 8 *and amounts transferred to the Fund under section 1886(j).*
 9 *Amounts in the Fund are available until expended.*

10 *“(b) EXPENDITURES FROM FUND.—Amounts in the*
 11 *Fund are available to the Secretary for making payments*
 12 *under section 2211.*

13 *“(c) ACCOUNTS IN FUND.—There are established with-*
 14 *in the Fund the following accounts:*

15 *“(1) The General MedicarePlus Incentive Ac-*
 16 *count.*

17 *“(2) The General Indirect-Costs Medical Edu-*
 18 *cation Account.*

19 *“(3) The General Direct-Costs Medical Edu-*
 20 *cation Account.*

21 *“(4) The Medicare Indirect-Costs Medical Edu-*
 22 *cation Account.*

23 *“(5) The Medicare Direct-Costs Medical Edu-*
 24 *cation Account.*

1 “(d) *GENERAL TRANSFERS TO FUND.*—

2 “(1) *IN GENERAL.*—For fiscal year 1997 and
3 each subsequent fiscal year, there are appropriated to
4 the Fund (effective on the date specified in paragraph
5 (2)), out of any money in the Treasury not otherwise
6 appropriated, the following amounts (as applicable to
7 the fiscal year involved):

8 “(A) For fiscal year 1997, \$1,100,000,000.

9 “(B) For fiscal year 1998, \$1,300,000,000.

10 “(C) For fiscal year 1999, \$2,000,000,000.

11 “(D) For fiscal year 2000, \$2,600,000,000.

12 “(E) For fiscal year 2001, \$3,100,000,000.

13 “(F) For fiscal year 2002, \$3,400,000,000.

14 “(G) For fiscal year 2003 and each subse-
15 quent fiscal year, the greater of the amount ap-
16 propriated for the preceding fiscal year or an
17 amount equal to the product of—

18 “(i) the amount appropriated for the
19 preceding fiscal year; and

20 “(ii) 1 plus the percentage increase in
21 the nominal gross domestic product for the
22 one-year period ending upon July 1 of such
23 preceding fiscal year.

24 “(2) *EFFECTIVE DATE FOR ANNUAL APPROPRIA-*
25 *TION.*—For purposes of paragraph (1), the date speci-

1 *fied in this paragraph for a fiscal year is the first*
2 *day of the fiscal year.*

3 “(3) *ALLOCATION FOR GENERAL MEDICAREPLUS*
4 *INCENTIVE ACCOUNT.—Of the amount appropriated*
5 *in paragraph (1) for a fiscal year, there shall be allo-*
6 *cated to the General MedicarePlus Incentive Account*
7 *the following percentage (as applicable to the fiscal*
8 *year involved):*

9 “(A) *For fiscal year 1997, 20 percent.*

10 “(B) *For fiscal year 1998, 30 percent.*

11 “(C) *For fiscal year 1999, 40 percent.*

12 “(D) *For fiscal year 2000 and each subse-*
13 *quent fiscal year, 50 percent.*

14 “(4) *ALLOCATIONS FOR GENERAL MEDICAL EDU-*
15 *CATION ACCOUNTS.—*

16 “(A) *IN GENERAL.—Of the amount appro-*
17 *priated in paragraph (1) for a fiscal year and*
18 *remaining after the allocation required in para-*
19 *graph (3) for the year has been made—*

20 “(i) *there shall be allocated to the Gen-*
21 *eral Indirect-Costs Medical Education Ac-*
22 *count the percentage determined under sub-*
23 *paragraph (B)(ii); and*

24 “(ii) *there shall be allocated to the*
25 *General Direct-Costs Medical Education Ac-*

1 count the percentage determined under sub-
2 paragraph (B)(iii).

3 “(B) *DETERMINATION OF FIXED PERCENT-*
4 *AGES.—The Secretary of Health and Human*
5 *Services, acting through the Administrator of the*
6 *Health Care Financing Administration, shall de-*
7 *termine the following:*

8 “(i) *The total amount of payments*
9 *that were made under subsections (d)(5)(B)*
10 *and (h) of section 1886 for fiscal year 1994.*

11 “(ii) *The percentage of such total that*
12 *was constituted by payments under sub-*
13 *section (d)(5)(B) of such section.*

14 “(iii) *The percentage of such total that*
15 *was constituted by payments under sub-*
16 *section (h) of such section.*

17 “(e) *TRANSFERS FROM MEDICARE PROGRAM.—*
18 *Amounts shall, in accordance with section 1886(j), be trans-*
19 *ferred to the Fund from the trust funds established under*
20 *parts A and B of title XVIII.*

21 “(f) *INVESTMENT.—*

22 “(1) *IN GENERAL.—The Secretary of the Treas-*
23 *ury shall invest such amounts of the Fund as such*
24 *Secretary determines are not required to meet current*
25 *withdrawals from the Fund. Such investments may be*

1 *made only in interest-bearing obligations of the Unit-*
2 *ed States. For such purpose, such obligations may be*
3 *acquired on original issue at the issue price, or by*
4 *purchase of outstanding obligations at the market*
5 *price.*

6 “(2) *SALE OF OBLIGATIONS.*—*Any obligation ac-*
7 *quired by the Fund may be sold by the Secretary of*
8 *the Treasury at the market price.*

9 “(3) *AVAILABILITY OF INCOME.*—*Any interest de-*
10 *derived from obligations acquired by the Fund, and*
11 *proceeds from any sale or redemption of such obliga-*
12 *tions, are hereby appropriated to the Fund.*

13 “(g) *MONETARY GIFTS TO FUND.*—*There are appro-*
14 *priated to the Fund such amounts as may be uncondition-*
15 *ally donated to the Federal Government as gifts to the*
16 *Fund.*

17 “*PART B—PAYMENTS TO TEACHING HOSPITALS*

18 “*Subpart 1—Requirement of Payments*

19 “**SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.**

20 “(a) *IN GENERAL.*—*Subject to subsection (d), in the*
21 *case of each teaching hospital that in accordance with sub-*
22 *section (b) submits to the Secretary a payment document*
23 *for fiscal year 1997 or any subsequent fiscal year, the Sec-*
24 *retary shall make payments for the year to the teaching*
25 *hospital for the direct and indirect costs of operating ap-*

1 *proved medical residency training programs. Such pay-*
2 *ments shall be made from the Fund, and the total of the*
3 *payments to the hospital for the fiscal year shall equal the*
4 *sum of the following:*

5 “(1) *An amount determined under section 2221*
6 *(relating to the MedicarePlus program).*

7 “(2) *An amount determined under section 2231*
8 *(relating to the indirect costs of graduate medical*
9 *education).*

10 “(3) *An amount determined under section 2241*
11 *(relating to the direct costs of graduate medical edu-*
12 *cation).*

13 “(b) *PAYMENT DOCUMENT.—For purposes of sub-*
14 *section (a), a payment document is a document containing*
15 *such information as may be necessary for the Secretary to*
16 *make payments under such subsection to a teaching hospital*
17 *during a fiscal year. The document is submitted in accord-*
18 *ance with this subsection if the document is submitted not*
19 *later than the date specified by the Secretary, and the docu-*
20 *ment is in such form and is made in such manner as the*
21 *Secretary may require. This subsection is subject to section*
22 *2212.*

23 “(c) *PERIODIC PAYMENTS.—Payments under sub-*
24 *section (a) for a teaching hospital for a fiscal year shall*
25 *be made periodically, at such intervals and in such*

1 *amounts as the Secretary determines to be appropriate*
2 *(subject to applicable Federal law regarding Federal pay-*
3 *ments).*

4 “(d) *SPECIAL RULES.—*

5 “(1) *PAYMENTS TO CONSORTIA OF PROVIDERS.—*

6 *In the case of payments under subsection (a) that are*
7 *determined under section 2241:*

8 “(A) *The requirement under such subsection*
9 *to make the payments to teaching hospitals is*
10 *subject to the authority of the Secretary under*
11 *section 2243(a) to make payments to qualifying*
12 *consortia.*

13 “(B) *If the Secretary authorizes payments*
14 *to a consortium under section 2243(a), sub-*
15 *sections (a) and (b) of this section (other than*
16 *subsection (a)(2)) apply to the consortium to the*
17 *same extent and in the same manner as the sub-*
18 *sections apply to teaching hospitals.*

19 “(2) *HOSPITALS IN STATES WITH CERTAIN DEM-*
20 *ONSTRATION PROJECTS.—Paragraph (2) of subsection*
21 *(a) is subject to section 2232(d)(1)(B), and paragraph*
22 *(3) of such subsection is subject to section*
23 *2242(d)(1)(B).*

24 “(e) *ADMINISTRATOR OF PROGRAMS.—This part, and*
25 *the subsequent parts of this title, shall be carried out by*

1 *the Secretary acting through the Administrator of the*
2 *Health Care Financing Administration.*

3 “(f) *APPROVED MEDICAL RESIDENCY TRAINING PRO-*
4 *GRAM.*—*For purposes of this title, the term ‘approved med-*
5 *ical residency training program’ has the meaning given*
6 *such term in section 1886(h)(5)(A).*

7 “**SEC. 2212. ADDITIONAL PROVISIONS REGARDING ANNUAL**
8 **PAYMENT DOCUMENT.**

9 “(a) *PERIODIC REPORTS.*—*In collecting information*
10 *under section 2211(b), the Secretary may require that infor-*
11 *mation be submitted to the Secretary in periodic reports.*

12 “(b) *INFORMATION RELATING TO MEDICARE PRO-*
13 *GRAM.*—*Information collected by the Secretary under sec-*
14 *tion 2211(b) with respect to a teaching hospital for a fiscal*
15 *year shall include information on the following:*

16 “(1) *The number of inpatient discharges for the*
17 *fiscal year attributable to individuals enrolled in the*
18 *MedicarePlus program under part C of title XVIII.*

19 “(2) *For each discharge with respect to which*
20 *payment is received from the Secretary pursuant to*
21 *part A of title XVIII, the diagnosis-related group*
22 *within which the discharge is classified (as deter-*
23 *mined in accordance with section 1886(d)(4)(A)).*

24 “(3) *The medicare patient load of the hospital*
25 *(as defined in section 1886(h)(3)(C)).*

1 “Subpart 2—Amount Relating to MedicarePlus Program

2 **“SEC. 2221. DETERMINATION OF AMOUNT RELATING TO**
3 **MEDICAREPLUS PROGRAM.**

4 “(a) *IN GENERAL.*—For purposes of section
5 2211(a)(1), the amount determined under this section for
6 a teaching hospital for a fiscal year is the product of—

7 “(1) the amount in the General MedicarePlus In-
8 centive Account on the date specified in section
9 2201(d)(2) (once the appropriation under such section
10 is made); and

11 “(2) the percentage determined for the hospital
12 under subsection (b) for the fiscal year.

13 “(b) *ANNUAL HOSPITAL-SPECIFIC PERCENTAGE.*—For
14 purposes of subsection (a)(2), the percentage determined
15 under this subsection for a teaching hospital for a fiscal
16 year is the percentage constituted by the ratio of—

17 “(1) the number of inpatient discharges for the
18 fiscal year attributable to individuals enrolled in the
19 MedicarePlus program under part C of title XVIII; to

20 “(2) the sum of the respective numbers deter-
21 mined under paragraph (1) for the fiscal year for all
22 teaching hospitals.

1 “(A) *IN GENERAL.*—For purposes of para-
2 graph (1)(B), the percentage determined under
3 this paragraph for a teaching hospital is the
4 mean average of the respective percentages deter-
5 mined under subparagraph (C) for each fiscal
6 year of the applicable period (as defined in sub-
7 paragraph (B)), adjusted by the Secretary (up-
8 ward or downward, as the case may be) on a pro
9 rata basis to the extent necessary to ensure that
10 the sum of the percentages determined under this
11 paragraph for all teaching hospitals is equal to
12 100 percent. The preceding sentence is subject to
13 section 2232.

14 “(B) *APPLICABLE PERIOD REGARDING REL-*
15 *EVANT DATA; FISCAL YEARS 1992 THROUGH*
16 *1994.*—For purposes of this part, the term ‘appli-
17 cable period’ means the period beginning on the
18 first day of fiscal year 1992 and continuing
19 through the end of fiscal year 1994.

20 “(C) *RESPECTIVE DETERMINATIONS FOR*
21 *FISCAL YEARS OF APPLICABLE PERIOD.*—For
22 purposes of subparagraph (A), the percentage de-
23 termined under this subparagraph for a teaching
24 hospital for a fiscal year of the applicable period
25 is the percentage constituted by the ratio of—

1 “(i) the total amount of payments re-
2 ceived by the hospital under section
3 1886(d)(5)(B) for discharges occurring dur-
4 ing the fiscal year involved; to

5 “(ii) the sum of the respective amounts
6 determined under clause (i) for the fiscal
7 year for all teaching hospitals.

8 “(3) AVAILABILITY OF DATA.—If a teaching hos-
9 pital received the payments specified in paragraph
10 (2)(C)(i) during the applicable period but a complete
11 set of the relevant data is not available to the Sec-
12 retary for purposes of determining an amount under
13 such paragraph for the fiscal year involved, the Sec-
14 retary shall for purposes of such subsection make an
15 estimate on the basis of such data as are available to
16 the Secretary for the applicable period.

17 “(c) PAYMENT FROM MEDICARE ACCOUNT.—For pur-
18 poses of subsection (a)(2), the amount determined under this
19 subsection for a teaching hospital for a fiscal year is an
20 amount determined in accordance with the methodology in
21 effect under section 1886(d)(5)(B) for such year. Payments
22 made under section 2211 pursuant to the preceding sentence
23 shall be made from the Medicare Indirect-Costs Medical
24 Education Account.

1 **“SEC. 2232. INDIRECT COSTS; SPECIAL RULES REGARDING**
2 **PAYMENTS FROM GENERAL ACCOUNT.**

3 *“(a) SPECIAL RULE REGARDING FISCAL YEARS 1995*
4 *AND 1996.—*

5 *“(1) IN GENERAL.—In the case of a teaching hos-*
6 *pital whose first payments under section*
7 *1886(d)(5)(B) were for discharges occurring in fiscal*
8 *year 1995 or in fiscal year 1996 (referred to in this*
9 *subsection individually as a ‘first payment year’), the*
10 *percentage determined under paragraph (2) for the*
11 *hospital is deemed to be the percentage applicable*
12 *under section 2231(b)(2) to the hospital, subject to*
13 *paragraph (3).*

14 *“(2) DETERMINATION OF FIXED PERCENTAGE.—*
15 *For purposes of paragraph (1), the percentage deter-*
16 *mined under this paragraph for a teaching hospital*
17 *is the percentage constituted by the ratio of the*
18 *amount determined under subparagraph (A) to the*
19 *amount determined under subparagraph (B), as fol-*
20 *lows:*

21 *“(A)(i) If the first payment year for the*
22 *hospital is fiscal year 1995, the amount deter-*
23 *mined under this subparagraph is the total*
24 *amount of payments received by the hospital*
25 *under section 1886(d)(5)(B) for discharges occur-*
26 *ring during fiscal year 1995.*

1 “(i) If the first payment year for the hos-
2 pital is fiscal year 1996, the amount determined
3 under this subparagraph is an amount equal to
4 an estimate by the Secretary of the total amount
5 of payments that would have been paid to the
6 hospital under section 1886(d)(5)(B) for dis-
7 charges occurring during fiscal year 1995 if such
8 section, as in effect for fiscal year 1996, had ap-
9 plied to the hospital for discharges occurring
10 during fiscal year 1995.

11 “(B)(i) If the first payment year for the
12 hospital is fiscal year 1995, the amount deter-
13 mined under this subparagraph is the aggregate
14 total of the payments received by teaching hos-
15 pitals under section 1886(d)(5)(B) for discharges
16 occurring during fiscal year 1995.

17 “(i) If the first payment year for the hos-
18 pital is fiscal year 1996—

19 “(I) the Secretary shall make an esti-
20 mate in accordance with subparagraph
21 (A)(ii) for all teaching hospitals; and

22 “(II) the amount determined under
23 this subparagraph is the sum of the esti-
24 mates made by the Secretary under
25 subclause (I).

1 “(3) *ADJUSTMENT OF PERCENTAGE.*—*The per-*
2 *centage determined under paragraph (2) shall be ad-*
3 *justed by the Secretary in accordance with section*
4 *2231(b)(2)(A) to the extent determined by the Sec-*
5 *retary to be necessary with respect to a sum that*
6 *equals 100 percent.*

7 “(b) *NEW TEACHING HOSPITALS.*—

8 “(1) *IN GENERAL.*—*In the case of a teaching hos-*
9 *pital that did not receive payments under section*
10 *1886(d)(5)(B) for any of the fiscal years 1992 through*
11 *1996, the percentage determined under paragraph (3)*
12 *for the hospital is deemed to be the percentage appli-*
13 *cable under section 2231(b)(2) to the hospital, subject*
14 *to paragraphs (4) and (5).*

15 “(2) *DESIGNATED FISCAL YEAR REGARDING*
16 *DATA.*—*The determination under paragraph (3) of a*
17 *percentage for a teaching hospital described in para-*
18 *graph (1) shall be made for the most recent fiscal year*
19 *for which the Secretary has sufficient data to make*
20 *the determination (referred to in this subsection as the*
21 *‘designated fiscal year’).*

22 “(3) *DETERMINATION OF FIXED PERCENTAGE.*—
23 *For purposes of paragraph (1), the percentage deter-*
24 *mined under this paragraph for the teaching hospital*
25 *involved is the percentage constituted by the ratio of*

1 *the amount determined under subparagraph (A) to*
2 *the amount determined under subparagraph (B), as*
3 *follows:*

4 *“(A) The amount determined under this*
5 *subparagraph is an amount equal to an estimate*
6 *by the Secretary of the total amount of payments*
7 *that would have been paid to the hospital under*
8 *section 1886(d)(5)(B) for the designated fiscal*
9 *year if such section, as in effect for the first fis-*
10 *cal year for which payments pursuant to this*
11 *subsection are to be made to the hospital, had*
12 *applied to the hospital for the designated fiscal*
13 *year.*

14 *“(B) The Secretary shall make an estimate*
15 *in accordance with subparagraph (A) for all*
16 *teaching hospitals. The amount determined*
17 *under this subparagraph is the sum of the esti-*
18 *mates made by the Secretary under the preceding*
19 *sentence.*

20 *“(4) ADJUSTMENT OF PERCENTAGE.—The per-*
21 *centage determined under paragraph (3) shall be ad-*
22 *justed by the Secretary in accordance with section*
23 *2231(b)(2)(A) to the extent determined by the Sec-*
24 *retary to be necessary with respect to a sum that*
25 *equals 100 percent.*

1 “(5) *LIMITATION.*—*This subsection does not*
2 *apply to a teaching hospital described in paragraph*
3 *(1) if the hospital is in a State for which a dem-*
4 *onstration project under section 1814(b)(3) is in ef-*
5 *fect.*

6 “(c) *CONSOLIDATIONS AND MERGERS.*—*In the case of*
7 *two or more teaching hospitals that have each received pay-*
8 *ments pursuant to section 2231 for one or more fiscal years*
9 *and that undergo a consolidation or merger, the percentage*
10 *applicable to the resulting teaching hospital for purposes*
11 *of section 2231(b)(2) is the sum of the respective percentages*
12 *that would have applied pursuant to such section if the hos-*
13 *pitals had not undergone the consolidation or merger.*

14 “(d) *STATES WITH CERTAIN DEMONSTRATION*
15 *PROJECTS.*—

16 “(1) *IN GENERAL.*—*In the case of a teaching hos-*
17 *pital in a State for which a demonstration project*
18 *under section 1814(b)(3) is in effect—*

19 “(A) *the percentage determined under para-*
20 *graph (2) for the hospital is deemed to be the*
21 *percentage applicable under section 2231(b)(2) to*
22 *the hospital; and*

23 “(B) *the hospital is not eligible for any*
24 *payments from the Medicare Indirect-Costs Med-*
25 *ical Education Account.*

1 “(2) *DETERMINATION OF FIXED PERCENTAGE.*—

2 *For purposes of paragraph (1)(A):*

3 “(A) *The Secretary shall make an estimate*
4 *of the total amount of payments that would have*
5 *been received under section 1886(d)(5)(b) by the*
6 *hospital involved with respect to each of the fis-*
7 *cal years of the applicable period if such section*
8 *(as in effect for such fiscal years) had applied to*
9 *the hospital for such years.*

10 “(B) *The percentage determined under this*
11 *paragraph for the hospital for a fiscal year is a*
12 *mean average percentage determined for the hos-*
13 *pital in accordance with the methodology of sec-*
14 *tion 2231(b)(2), except that the estimate made by*
15 *the Secretary under subparagraph (A) of this*
16 *paragraph for a fiscal year of the applicable pe-*
17 *riod is deemed to be the amount that applies for*
18 *purposes of section 2231(b)(2)(C)(i) for such*
19 *year.*

1 “Subpart 4—Amount Relating to Direct Costs of Graduate
2 Medical Education

3 **“SEC. 2241. DETERMINATION OF AMOUNT RELATING TO DI-**
4 **RECT COSTS.**

5 “(a) *IN GENERAL.*—For purposes of section
6 2211(a)(3), the amount determined under this section for
7 a teaching hospital for a fiscal year is the sum of—

8 “(1) the amount determined under subsection (b)
9 (relating to the General Direct-Costs Medical Edu-
10 cation Account); and

11 “(2) the amount determined under subsection (c)
12 (relating to the Medicare Direct-Costs Medical Edu-
13 cation Account), subject to section 2242(d)(1)(B).

14 “(b) *PAYMENT FROM GENERAL ACCOUNT.*—

15 “(1) *IN GENERAL.*—For purposes of subsection
16 (a)(1), the amount determined under this subsection
17 for a teaching hospital for a fiscal year is the product
18 of—

19 “(A) the amount in the General Direct-
20 Costs Medical Education Account on the applica-
21 ble date under section 2201(d)(2) (once the ap-
22 propriation under such section is made); and

23 “(B) the percentage determined for the hos-
24 pital under paragraph (2).

25 “(2) *FIXED HOSPITAL-SPECIFIC PERCENTAGE.*—

1 “(A) *IN GENERAL.*—For purposes of para-
2 graph (1)(B), the percentage determined under
3 this paragraph for a teaching hospital is the
4 mean average of the respective percentages deter-
5 mined under subparagraph (B) for each fiscal
6 year of the applicable period (as defined in sec-
7 tion 2231(b)(2)(B)), adjusted by the Secretary
8 (upward or downward, as the case may be) on
9 a pro rata basis to the extent necessary to ensure
10 that the sum of the percentages determined under
11 this subparagraph for all teaching hospitals is
12 equal to 100 percent. The preceding sentence is
13 subject to section 2242.

14 “(B) *RESPECTIVE DETERMINATIONS FOR*
15 *FISCAL YEARS OF APPLICABLE PERIOD.*—For
16 purposes of subparagraph (A), the percentage de-
17 termined under this subparagraph for a teaching
18 hospital for a fiscal year of the applicable period
19 is the percentage constituted by the ratio of—

20 “(i) the total amount of payments re-
21 ceived by the hospital under section 1886(h)
22 for cost reporting periods beginning during
23 the fiscal year involved; to

1 “(1) *IN GENERAL.*—*In the case of a teaching hos-*
2 *pital whose first payments under section 1886(h) were*
3 *for the cost reporting period beginning in fiscal year*
4 *1995 or in fiscal year 1996 (referred to in this sub-*
5 *section individually as a ‘first payment year’), the*
6 *percentage determined under paragraph (2) for the*
7 *hospital is deemed to be the percentage applicable*
8 *under section 2241(b)(2) to the hospital, subject to*
9 *paragraph (3).*

10 “(2) *DETERMINATION OF FIXED PERCENTAGE.*—
11 *For purposes of paragraph (1), the percentage deter-*
12 *mined under this paragraph for a teaching hospital*
13 *is the percentage constituted by the ratio of the*
14 *amount determined under subparagraph (A) to the*
15 *amount determined under subparagraph (B), as fol-*
16 *lows:*

17 “(A)(i) *If the first payment year for the*
18 *hospital is fiscal year 1995, the amount deter-*
19 *mined under this subparagraph is the total*
20 *amount of payments received by the hospital*
21 *under section 1886(h) for cost reporting periods*
22 *beginning in fiscal year 1995.*

23 “(i) *If the first payment year for the hos-*
24 *pital is fiscal year 1996, the amount determined*
25 *under this subparagraph is an amount equal to*

1 *an estimate by the Secretary of the total amount*
2 *of payments that would have been paid to the*
3 *hospital under section 1886(h) for cost reporting*
4 *periods beginning in fiscal year 1995 if such sec-*
5 *tion, as in effect for fiscal year 1996, had ap-*
6 *plied to the hospital for fiscal year 1995.*

7 “(B)(i) *If the first payment year for the*
8 *hospital is fiscal year 1995, the amount deter-*
9 *mined under this subparagraph is the aggregate*
10 *total of the payments received by teaching hos-*
11 *pitals under section 1886(h) for cost reporting*
12 *periods beginning in fiscal year 1995.*

13 “(ii) *If the first payment year for the hos-*
14 *pital is fiscal year 1996—*

15 “(I) *the Secretary shall make an esti-*
16 *mate in accordance with subparagraph*
17 *(A)(ii) for all teaching hospitals; and*

18 “(II) *the amount determined under*
19 *this subparagraph is the sum of the esti-*
20 *mates made by the Secretary under*
21 *subclause (I).*

22 “(3) *ADJUSTMENT OF PERCENTAGE.—The per-*
23 *centage determined under paragraph (2) shall be ad-*
24 *justed by the Secretary in accordance with section*
25 *2241(b)(2)(A) to the extent determined by the Sec-*

1 retary to be necessary with respect to a sum that
2 equals 100 percent.

3 “(b) *NEW TEACHING HOSPITALS.*—

4 “(1) *IN GENERAL.*—In the case of a teaching hos-
5 pital that did not receive payments under section
6 1886(h) for any of the fiscal years 1992 through 1996,
7 the percentage determined under paragraph (3) for
8 the hospital is deemed to be the percentage applicable
9 under section 2241(b)(2) to the hospital, subject to
10 paragraphs (4) and (5).

11 “(2) *DESIGNATED FISCAL YEAR REGARDING*
12 *DATA.*—The determination under paragraph (3) of a
13 percentage for a teaching hospital described in para-
14 graph (1) shall be made for the most recent fiscal year
15 for which the Secretary has sufficient data to make
16 the determination (referred to in this subsection as the
17 ‘designated fiscal year’).

18 “(3) *DETERMINATION OF FIXED PERCENTAGE.*—
19 For purposes of paragraph (1), the percentage deter-
20 mined under this paragraph for the teaching hospital
21 involved is the percentage constituted by the ratio of
22 the amount determined under subparagraph (A) to
23 the amount determined under subparagraph (B), as
24 follows:

1 “(A) *The amount determined under this*
2 *subparagraph is an amount equal to an estimate*
3 *by the Secretary of the total amount of payments*
4 *that would have been paid to the hospital under*
5 *section 1886(h) for the designated fiscal year if*
6 *such section, as in effect for the first fiscal year*
7 *for which payments pursuant to this subsection*
8 *are to be made to the hospital, had applied to the*
9 *hospital for cost reporting periods beginning in*
10 *the designated fiscal year.*

11 “(B) *The Secretary shall make an estimate*
12 *in accordance with subparagraph (A) for all*
13 *teaching hospitals. The amount determined*
14 *under this subparagraph is the sum of the esti-*
15 *mates made by the Secretary under the preceding*
16 *sentence.*

17 “(4) *ADJUSTMENT OF PERCENTAGE.—The per-*
18 *centage determined under paragraph (3) shall be ad-*
19 *justed by the Secretary in accordance with section*
20 *2223(b)(2)(A) to the extent determined by the Sec-*
21 *retary to be necessary with respect to a sum that*
22 *equals 100 percent.*

23 “(5) *LIMITATION.—This subsection does not*
24 *apply to a teaching hospital described in paragraph*
25 *(1) if the hospital is in a State for which a dem-*

1 *onstration project under section 1814(b)(3) is in ef-*
2 *fect.*

3 “(c) *CONSOLIDATIONS AND MERGERS.—In the case of*
4 *two or more teaching hospitals that have each received pay-*
5 *ments pursuant to section 2241 for one or more fiscal years*
6 *and that undergo a consolidation or merger, the percentage*
7 *applicable to the resulting teaching hospital for purposes*
8 *of section 2241(b)(2) is the sum of the respective percentages*
9 *that would have applied pursuant to such section if the hos-*
10 *pitals had not undergone the consolidation or merger.*

11 “(d) *STATES WITH CERTAIN DEMONSTRATION*
12 *PROJECTS.—*

13 “(1) *IN GENERAL.—In the case of a teaching hos-*
14 *pital in a State for which a demonstration project*
15 *under section 1814(b)(3) is in effect—*

16 “(A) *the percentage determined under para-*
17 *graph (2) for the hospital is deemed to be the*
18 *percentage applicable under section 2241(b)(2) to*
19 *the hospital; and*

20 “(B) *the hospital is not eligible for any*
21 *payments from the Medicare Direct-Costs Medi-*
22 *cal Education Account.*

23 “(2) *DETERMINATION OF FIXED PERCENTAGE.—*
24 *For purposes of paragraph (1)(A):*

1 “(A) *The Secretary shall make an estimate*
2 *of the total amount of payments that would have*
3 *been received under section 1886(h) by the hos-*
4 *pital involved with respect to each of the fiscal*
5 *years of the applicable period if such section (as*
6 *in effect for such fiscal years) had applied to the*
7 *hospital for such years.*

8 “(B) *The percentage determined under this*
9 *paragraph for the hospital for a fiscal year is a*
10 *mean average percentage determined for the hos-*
11 *pital in accordance with the methodology of sec-*
12 *tion 2241(b)(2), except that the estimate made by*
13 *the Secretary under subparagraph (A) of this*
14 *paragraph for a fiscal year of the applicable pe-*
15 *riod is deemed to be the amount that applies for*
16 *purposes of section 2241(b)(2)(B)(i) for such*
17 *year.*

18 **“SEC. 2243. DIRECT COSTS; AUTHORITY FOR PAYMENTS TO**
19 **CONSORTIA OF PROVIDERS.**

20 “(a) *IN GENERAL.—In lieu of making payments to*
21 *teaching hospitals pursuant to sections 2221 and 2241, the*
22 *Secretary may make payments under this section to consor-*
23 *tia that meet the requirements of subsection (b).*

24 “(b) *QUALIFYING CONSORTIUM.—For purposes of sub-*
25 *section (a), a consortium meets the requirements of this sub-*

1 *section if the consortium is in compliance with the follow-*
2 *ing:*

3 “(1) *The consortium consists of a teaching hos-*
4 *pital and one or more of the following entities:*

5 “(A) *Schools of allopathic medicine or osteo-*
6 *pathic medicine.*

7 “(B) *Other teaching hospitals.*

8 “(C) *Approved medical residency training*
9 *programs.*

10 “(D) *Federally qualified health centers.*

11 “(E) *Medical group practices.*

12 “(F) *Managed care entities.*

13 “(G) *Entities furnishing outpatient services.*

14 “(H) *Such other entities as the Secretary*
15 *determines to be appropriate.*

16 “(2) *The members of the consortium have agreed*
17 *to collaborate in the programs of graduate medical*
18 *education that are operated by such members.*

19 “(3) *With respect to the receipt by the consor-*
20 *tium of payments made pursuant to this section, the*
21 *members of the consortium have agreed on a method*
22 *for allocating the payments among the members.*

23 “(4) *The consortium meets such additional re-*
24 *quirements as the Secretary may establish.*

1 *curing on or before September 30, 1996, the Sec-*
2 *retary shall provide”;*

3 *(2) in subsection (h)—*

4 *(A) in paragraph (1), in the first sentence,*
5 *by striking “the Secretary shall provide” and in-*
6 *serting “the Secretary shall, subject to paragraph*
7 *(6), provide”;* and

8 *(B) by adding at the end the following*
9 *paragraph:*

10 *“(6) LIMITATION.—*

11 *“(A) IN GENERAL.—The authority to make*
12 *payments under this subsection applies only*
13 *with respect to cost reporting periods ending on*
14 *or before September 30, 1996, except as provided*
15 *in subparagraph (B).*

16 *“(B) RULE REGARDING PORTION OF LAST*
17 *COST REPORTING PERIOD.—In the case of a cost*
18 *reporting period that extends beyond September*
19 *30, 1996, payments under this subsection shall*
20 *be made with respect to such portion of the pe-*
21 *riod as has lapsed as of such date.*

22 *“(C) RULE OF CONSTRUCTION.—This para-*
23 *graph may not be construed as authorizing any*
24 *payment under section 1861(v) with respect to*
25 *graduate medical education.”;* and

1 (3) *by adding at the end the following subsection:*

2 “(j) *TRANSFERS TO TEACHING HOSPITAL AND GRAD-*
3 *UATE MEDICAL EDUCATION TRUST FUND.—*

4 “(1) *INDIRECT COSTS OF MEDICAL EDU-*
5 *CATION.—*

6 “(A) *IN GENERAL.—From the Federal Hos-*
7 *pital Insurance Trust Fund, the Secretary shall,*
8 *for fiscal year 1997 and each subsequent fiscal*
9 *year, transfer to the Medicare Indirect-Costs*
10 *Medical Education Account under section 2201*
11 *an amount determined by the Secretary in ac-*
12 *cordance with subparagraph (B).*

13 “(B) *DETERMINATION OF AMOUNTS.—The*
14 *Secretary shall make an estimate for the fiscal*
15 *year involved of the nationwide total of the*
16 *amounts that would have been paid under sub-*
17 *section (d)(5)(B) to hospitals during the fiscal*
18 *year if such payments had not been terminated*
19 *for discharges occurring after September 30,*
20 *1996. For purposes of subparagraph (A), the*
21 *amount determined under this subparagraph for*
22 *the fiscal year is the estimate made by the Sec-*
23 *retary under the preceding sentence.*

24 “(C) *SUPPLEMENTAL TRANSFERS.—If the*
25 *Secretary determines that the amount of a trans-*

1 *fer under subparagraph (A) for a fiscal year is*
2 *insufficient for making payments in the amounts*
3 *required pursuant to section 2231(a)(2) for the*
4 *year, the Secretary shall make such additional*
5 *transfers for the year between the funds and ac-*
6 *counts involved as the Secretary determines to be*
7 *necessary for making the payments.*

8 “(2) *DIRECT COSTS OF MEDICAL EDUCATION.*—

9 “(A) *IN GENERAL.*—*From the Federal Hos-*
10 *pital Insurance Trust Fund and the Federal*
11 *Supplementary Medical Insurance Trust Fund,*
12 *the Secretary shall, for fiscal year 1997 and each*
13 *subsequent fiscal year, transfer to the Medicare*
14 *Direct-Costs Medical Education Account (under*
15 *section 2201) the sum of—*

16 “(i) *an amount determined by the Sec-*
17 *retary in accordance with subparagraph*
18 *(B); and*

19 “(ii) *as applicable, an amount deter-*
20 *mined by the Secretary in accordance with*
21 *subparagraph (C)(ii).*

22 “(B) *DETERMINATION OF AMOUNTS.*—*For*
23 *each hospital (other than a hospital that is a*
24 *member of a qualifying consortium referred to in*
25 *subparagraph (C)), the Secretary shall make an*

1 *estimate for the fiscal year involved of the*
2 *amount that would have been paid under sub-*
3 *section (h) to the hospital during the fiscal year*
4 *if such payments had not been terminated for*
5 *cost reporting periods ending on or before Sep-*
6 *tember 30, 1996. For purposes of subparagraph*
7 *(A)(i), the amount determined under this sub-*
8 *paragraph for the fiscal year is the sum of all*
9 *estimates made by the Secretary under the pre-*
10 *ceding sentence.*

11 “(C) *ESTIMATES REGARDING QUALIFYING*
12 *CONSORTIA.—If the Secretary authorizes pay-*
13 *ments under section 2243(a) to one or more*
14 *qualifying consortia, the Secretary shall carry*
15 *out the following:*

16 “(i) *The Secretary shall establish a*
17 *methodology for making payments to quali-*
18 *fying consortia with respect to the reason-*
19 *able direct costs of such consortia in carry-*
20 *ing out programs of graduate medical edu-*
21 *cation. The methodology shall be the meth-*
22 *odology established in subsection (h), modi-*
23 *fied to the extent necessary to take into ac-*
24 *count the participation in such programs of*
25 *entities other than hospitals.*

1 “(i) For each qualifying consortium,
2 the Secretary shall make an estimate for the
3 fiscal year involved of the amount that
4 would have been paid to the consortium
5 during the fiscal year if, using the meth-
6 odology under clause (i), payments had been
7 made to the consortium for the fiscal year
8 as reimbursements with respect to cost re-
9 porting periods. For purposes of subpara-
10 graph (A)(ii), the amount determined under
11 this clause for the fiscal year is the sum of
12 all estimates made by the Secretary under
13 the preceding sentence.

14 “(D) ALLOCATION BETWEEN FUNDS.—In
15 providing for a transfer under subparagraph (A)
16 for a fiscal year, the Secretary shall provide for
17 an allocation of the amounts involved between
18 part A and part B (and the trust funds estab-
19 lished under the respective parts) as reasonably
20 reflects the proportion of direct graduate medical
21 education costs of hospitals associated with the
22 provision of services under each respective part.

23 “(E) SUPPLEMENTAL TRANSFERS.—If the
24 Secretary determines that the amount of a trans-
25 fer under subparagraph (A) for a fiscal year is

1 *insufficient for making payments in the amounts*
2 *required pursuant to sections 2241(a)(2) and*
3 *2243(c)(3) for the year, the Secretary shall make*
4 *such additional transfers for the year between the*
5 *funds and accounts involved as the Secretary de-*
6 *termines to be necessary for making the pay-*
7 *ments.*

8 “(3) *APPLICABILITY OF CERTAIN AMEND-*
9 *MENTS.—Amendments made to subsection (d)(5)(B)*
10 *and subsection (h) that are effective on or after Octo-*
11 *ber 1, 1996, apply only for purposes of estimates*
12 *under paragraphs (1) and (2) and for purposes of de-*
13 *termining the amount of payments under 2211. Such*
14 *amendments do not require any adjustment to*
15 *amounts paid under subsection (d)(5)(B) or (h) with*
16 *respect to fiscal year 1996 or any prior fiscal year.*

17 “(4) *RELATIONSHIP TO CERTAIN DEMONSTRA-*
18 *TION PROJECTS.—In the case of a State for which a*
19 *demonstration project under section 1814(b)(3) is in*
20 *effect, the Secretary, in making determinations of the*
21 *rates of increase under such section, shall include all*
22 *amounts transferred under this subsection. Such*
23 *amounts shall be so included to the same extent and*
24 *in the same manner as amounts determined under*
25 *subsections (d)(5)(B) and (h) were included in such*

1 *determination under the provisions of this title in ef-*
2 *fect on September 30, 1996.”.*

3 ***Title XII—Other Provisions***
4 ***Subtitle F—National Defense***
5 ***Stockpile***

6 ***SEC. 12601. DISPOSAL OF CERTAIN MATERIALS IN NA-***
7 ***TIONAL DEFENSE STOCKPILE FOR DEFICIT***
8 ***REDUCTION.***

9 *(a) DISPOSALS REQUIRED.—(1) During fiscal year*
10 *1996, the President shall dispose of all cobalt contained in*
11 *the National Defense Stockpile that, as of the date of the*
12 *enactment of this Act, is authorized for disposal under any*
13 *law (other than this Act).*

14 *(2) In addition to the disposal of cobalt under para-*
15 *graph (1), the President shall dispose of additional quan-*
16 *tities of cobalt and quantities of other materials contained*
17 *in the National Defense Stockpile and specified in the table*
18 *in subsection (b) so as to result in receipts to the United*
19 *States in amounts equal to—*

20 *(A) \$21,000,000 during the fiscal year ending*
21 *September 30, 1996;*

22 *(B) \$338,000,000 during the five-fiscal year pe-*
23 *riod ending on September 30, 2000; and*

24 *(C) \$649,000,000 during the seven-fiscal year pe-*
25 *riod ending on September 30, 2002.*

1 (b) *LIMITATION ON DISPOSAL QUANTITY.*—The total
 2 quantities of materials authorized for disposal by the Presi-
 3 dent under subsection (a)(2) may not exceed the amounts
 4 set forth in the following table:

Authorized Stockpile Disposals

<i>Material for disposal</i>	<i>Quantity</i>
<i>Aluminum</i>	<i>62,881 short tons</i>
<i>Cobalt</i>	<i>30,000,000 pounds contained</i>
<i>Columbium Ferro</i>	<i>930,911 pounds contained</i>
<i>Germanium Metal</i>	<i>40,000 kilograms</i>
<i>Indium</i>	<i>35,000 troy ounces</i>
<i>Palladium</i>	<i>15,000 troy ounces</i>
<i>Platinum</i>	<i>10,000 troy ounces</i>
<i>Rubber, Natural</i>	<i>125,138 long tons</i>
<i>Tantalum, Carbide Powder</i>	<i>6,000 pounds contained</i>
<i>Tantalum, Minerals</i>	<i>750,000 pounds contained</i>
<i>Tantalum, Oxide</i>	<i>40,000 pounds contained</i>

5 (c) *DEPOSIT OF RECEIPTS.*—Notwithstanding section
 6 9 of the Strategic and Critical Materials Stock Piling Act
 7 (50 U.S.C. 98h), funds received as a result of the disposal
 8 of materials under subsection (a)(2) shall be deposited into
 9 the general fund of the Treasury for the purpose of deficit
 10 reduction.

11 (d) *RELATIONSHIP TO OTHER DISPOSAL AUTHOR-*
 12 *ITY.*—The disposal authority provided in subsection (a)(2)
 13 is new disposal authority and is in addition to, and shall
 14 not affect, any other disposal authority provided by law re-
 15 garding the materials specified in such subsection.

16 (e) *TERMINATION OF DISPOSAL AUTHORITY.*—The
 17 President may not use the disposal authority provided in
 18 subsection (a)(2) after the date on which the total amount
 19 of receipts specified in subparagraph (C) of such subsection
 20 is achieved.

1 (f) *DEFINITION.*—The term “National Defense Stock-
2 *pile*” means the National Defense Stockpile provided for in
3 *section 4 of the Strategic and Critical Materials Stock Pil-*
4 *ing Act (50 U.S.C. 98c).*

5 ***Subtitle G—Child Protection***
6 ***Block Grant Program And Foster***
7 ***Care and Adoption Assist-***
8 ***ance***

9 ***SEC. 12701. ESTABLISHMENT OF PROGRAM.***

10 *Title IV of the Social Security Act (42 U.S.C. 601 et*
11 *seq.) is amended by striking subpart 2 of part B and insert-*
12 *ing the following:*

13 ***“Subpart 2—Block Grants to States for the Protection***
14 ***of Children and Matching Payments for Foster***
15 ***Care and Adoption Assistance***

16 ***“SEC. 430. ELIGIBLE STATES.***

17 ***“(a) IN GENERAL.***—As used in this subpart, the term
18 *‘eligible State’ means a State that has submitted to the Sec-*
19 *retary, not later than October 1, 1996, and every 3 years*
20 *thereafter, a plan which has been signed by the chief execu-*
21 *tive officer of the State and that includes the following:*

22 ***“(1) OUTLINE OF CHILD PROTECTION PRO-***
23 ***GRAM.***—A written document that outlines the activi-
24 ***ties the State intends to conduct to achieve the child***

1 *protection goals of the program funded under this*
2 *subpart, including the procedures to be used for—*

3 *“(A) receiving and assessing reports of child*
4 *abuse or neglect;*

5 *“(B) investigating such reports;*

6 *“(C) with respect to families in which abuse*
7 *or neglect has been confirmed, providing services*
8 *or referral for services for families and children*
9 *where the State makes a determination that the*
10 *child may safely remain with the family;*

11 *“(D) protecting children by removing them*
12 *from dangerous settings and ensuring their*
13 *placement in a safe environment;*

14 *“(E) providing training for individuals*
15 *mandated to report suspected cases of child abuse*
16 *or neglect;*

17 *“(F) protecting children in foster care;*

18 *“(G) promoting timely adoptions;*

19 *“(H) protecting the rights of families, using*
20 *adult relatives as the preferred placement for*
21 *children separated from their parents where such*
22 *relatives meet the relevant State child protection*
23 *standards;*

24 *“(I) providing services to individuals, fami-*
25 *lies, or communities, either directly or through*

1 *referral, that are aimed at preventing the occur-*
2 *rence of child abuse and neglect; and*

3 *“(J) establishing and responding to citizen*
4 *review panels under section 434.*

5 *“(2) CERTIFICATION OF STATE LAW REQUIRING*
6 *THE REPORTING OF CHILD ABUSE AND NEGLECT.—A*
7 *certification that the State has in effect laws that re-*
8 *quire public officials and other professionals to report,*
9 *in good faith, actual or suspected instances of child*
10 *abuse or neglect.*

11 *“(3) CERTIFICATION OF PROCEDURES FOR*
12 *SCREENING, SAFETY ASSESSMENT, AND PROMPT IN-*
13 *VESTIGATION.—A certification that the State has in*
14 *effect procedures for receiving and responding to re-*
15 *ports of child abuse or neglect, including the reports*
16 *described in paragraph (2), and for the immediate*
17 *screening, safety assessment, and prompt investiga-*
18 *tion of such reports.*

19 *“(4) CERTIFICATION OF STATE PROCEDURES FOR*
20 *REMOVAL AND PLACEMENT OF ABUSED OR NE-*
21 *GLECTED CHILDREN.—A certification that the State*
22 *has in effect procedures for the removal from families*
23 *and placement of abused or neglected children and of*
24 *any other child in the same household who may also*
25 *be in danger of abuse or neglect.*

1 “(5) *CERTIFICATION OF PROVISIONS FOR IMMUN-*
2 *ITY FROM PROSECUTION.*—*A certification that the*
3 *State has in effect laws requiring immunity from*
4 *prosecution under State and local laws and regula-*
5 *tions for individuals making good faith reports of sus-*
6 *pected or known instances of child abuse or neglect.*

7 “(6) *CERTIFICATION OF PROVISIONS AND PROCE-*
8 *DURES FOR EXPUNGEMENT OF CERTAIN RECORDS.*—
9 *A certification that the State has in effect laws and*
10 *procedures requiring the facilitation of the prompt*
11 *expungement of any records that are accessible to the*
12 *general public or are used for purposes of employment*
13 *or other background checks in cases determined to be*
14 *unsubstantiated or false.*

15 “(7) *CERTIFICATION OF PROVISIONS AND PROCE-*
16 *DURES RELATING TO APPEALS.*—*A certification that*
17 *not later than 2 years after the date of the enactment*
18 *of this subpart, the State shall have laws and proce-*
19 *dures in effect affording individuals an opportunity*
20 *to appeal an official finding of abuse or neglect.*

21 “(8) *CERTIFICATION OF STATE PROCEDURES FOR*
22 *DEVELOPING AND REVIEWING WRITTEN PLANS FOR*
23 *PERMANENT PLACEMENT OF REMOVED CHILDREN.*—*A*
24 *certification that the State has in effect procedures for*
25 *ensuring that a written plan is prepared for children*

1 *who have been removed from their families. Such plan*
2 *shall specify the goals for achieving a permanent*
3 *placement for the child in a timely fashion, for ensur-*
4 *ing that the written plan is reviewed every 6 months*
5 *(until such placement is achieved), and for ensuring*
6 *that information about such children is collected regu-*
7 *larly and recorded in case records, and include a de-*
8 *scription of such procedures.*

9 “(9) *CERTIFICATION OF STATE PROGRAM TO*
10 *PROVIDE INDEPENDENT LIVING SERVICES.—A certifi-*
11 *cation that the State has in effect a program to pro-*
12 *vide independent living services, for assistance in*
13 *making the transition to self-sufficient adulthood, to*
14 *individuals in the child protection program of the*
15 *State who are 16, but who are not 20 (or, at the op-*
16 *tion of the State, 22), years of age, and who do not*
17 *have a family to which to be returned.*

18 “(10) *CERTIFICATION OF STATE PROCEDURES TO*
19 *RESPOND TO REPORTING OF MEDICAL NEGLECT OF*
20 *DISABLED INFANTS.—*

21 “(A) *IN GENERAL.—A certification that the*
22 *State has in place for the purpose of responding*
23 *to the reporting of medical neglect of infants (in-*
24 *cluding instances of withholding of medically in-*
25 *dicated treatment from disabled infants with*

1 *life-threatening conditions), procedures or pro-*
2 *grams, or both (within the State child protective*
3 *services system), to provide for—*

4 “(i) *coordination and consultation*
5 *with individuals designated by and within*
6 *appropriate health-care facilities;*

7 “(ii) *prompt notification by individ-*
8 *uals designated by and within appropriate*
9 *health-care facilities of cases of suspected*
10 *medical neglect (including instances of*
11 *withholding of medically indicated treat-*
12 *ment from disabled infants with life-threat-*
13 *ening conditions); and*

14 “(iii) *authority, under State law, for*
15 *the State child protective service to pursue*
16 *any legal remedies, including the authority*
17 *to initiate legal proceedings in a court of*
18 *competent jurisdiction, as may be necessary*
19 *to prevent the withholding of medically in-*
20 *dicated treatment from disabled infants*
21 *with life-threatening conditions.*

22 “(B) *WITHHOLDING OF MEDICALLY INDI-*
23 *CATED TREATMENT.—As used in subparagraph*
24 *(A), the term ‘withholding of medically indicated*
25 *treatment’ means the failure to respond to the*

1 *infant’s life-threatening conditions by providing*
2 *treatment (including appropriate nutrition, hy-*
3 *dration, and medication) which, in the treating*
4 *physician’s or physicians’ reasonable medical*
5 *judgment, will be most likely to be effective in*
6 *ameliorating or correcting all such conditions,*
7 *except that such term does not include the failure*
8 *to provide treatment (other than appropriate nu-*
9 *trition, hydration, or medication) to an infant*
10 *when, in the treating physician’s or physicians’*
11 *reasonable medical judgment—*

12 *“(i) the infant is chronically and irre-*
13 *versibly comatose;*

14 *“(ii) the provision of such treatment*
15 *would—*

16 *“(I) merely prolong dying;*

17 *“(II) not be effective in ameliorat-*
18 *ing or correcting all of the infant’s life-*
19 *threatening conditions; or*

20 *“(III) otherwise be futile in terms*
21 *of the survival of the infant; or*

22 *“(iii) the provision of such treatment*
23 *would be virtually futile in terms of the sur-*
24 *vival of the infant and the treatment itself*

1 *under such circumstances would be inhu-*
2 *mane.*

3 “(11) *IDENTIFICATION OF CHILD PROTECTION*
4 *GOALS.—The quantitative goals of the State child*
5 *protection program.*

6 “(12) *CERTIFICATION OF CHILD PROTECTION*
7 *STANDARDS.—With respect to fiscal years beginning*
8 *on or after April 1, 1996, a certification that the*
9 *State—*

10 “(A) *has completed an inventory of all chil-*
11 *dren who, before the inventory, had been in foster*
12 *care under the responsibility of the State for 6*
13 *months or more, which determined—*

14 “(i) *the appropriateness of, and neces-*
15 *sity for, the foster care placement;*

16 “(ii) *whether the child could or should*
17 *be returned to the parents of the child or*
18 *should be freed for adoption or other perma-*
19 *nent placement; and*

20 “(iii) *the services necessary to facili-*
21 *tate the return of the child or the placement*
22 *of the child for adoption or legal guardian-*
23 *ship;*

24 “(B) *is operating, to the satisfaction of the*
25 *Secretary—*

1 “(i) a statewide information system
2 from which can be readily determined the
3 status, demographic characteristics, loca-
4 tion, and goals for the placement of every
5 child who is (or, within the immediately
6 preceding 12 months, has been) in foster
7 care;

8 “(ii) a case review system for each
9 child receiving foster care under the super-
10 vision of the State;

11 “(iii) a service program designed to
12 help children—

13 “(I) where appropriate, return to
14 families from which they have been re-
15 moved; or

16 “(II) be placed for adoption, with
17 a legal guardian, or if adoption or
18 legal guardianship is determined not
19 to be appropriate for a child, in some
20 other planned, permanent living ar-
21 rangement; and

22 “(iv) a preplacement preventive serv-
23 ices program designed to help children at
24 risk for foster care placement remain with
25 their families; and

1 “(C)(i) has reviewed (or not later than Oc-
2 tober 1, 1997, will review) State policies and ad-
3 ministrative and judicial procedures in effect for
4 children abandoned at or shortly after birth (in-
5 cluding policies and procedures providing for
6 legal representation of such children); and

7 “(ii) is implementing (or not later than Oc-
8 tober 1, 1997, will implement) such policies and
9 procedures as the State determines, on the basis
10 of the review described in clause (i), to be nec-
11 essary to enable permanent decisions to be made
12 expeditiously with respect to the placement of
13 such children.

14 “(13) CERTIFICATION OF REASONABLE EFFORTS
15 BEFORE PLACEMENT OF CHILDREN IN FOSTER
16 CARE.—A certification that the State in each case
17 will—

18 “(A) make reasonable efforts prior to the
19 placement of a child in foster care, to prevent or
20 eliminate the need for removal of the child from
21 the child’s home, and to make it possible for the
22 child to return home; and

23 “(B) with respect to families in which abuse
24 or neglect has been confirmed, provide services or
25 referral for services for families and children

1 *where the State makes a determination that the*
2 *child may safely remain with the family.*

3 “(14) *CERTIFICATION OF COOPERATIVE EF-*
4 *FORTS.—A certification by the State, where appro-*
5 *priate, that all steps will be taken, including coopera-*
6 *tive efforts with the State agencies administering the*
7 *plans approved under parts A and D, to secure an as-*
8 *signment to the State of any rights to support on be-*
9 *half of each child receiving foster care maintenance*
10 *payments under this subpart.*

11 “(b) *DETERMINATIONS.—The Secretary shall deter-*
12 *mine whether a plan submitted pursuant to subsection (a)*
13 *contains the material required by subsection (a), other than*
14 *the material described in paragraph (10) of such subsection.*
15 *The Secretary may not require a State to include in such*
16 *a plan any material not described in subsection (a).*

17 “**SEC. 431. GRANTS TO STATES FOR CHILD PROTECTION**
18 **AND PAYMENTS FOR FOSTER CARE AND**
19 **ADOPTION ASSISTANCE..**

20 “(a) *FUNDING OF BLOCK GRANTS.—Each eligible*
21 *State shall be entitled to receive from the Secretary for each*
22 *fiscal year specified in subsection (c)(1) a grant in an*
23 *amount equal to the State share of the child protection*
24 *amount for the fiscal year.*

25 “(b) *MAINTENANCE PAYMENTS.—*

1 “(1) *IN GENERAL.*—*In addition to the grants de-*
2 *scribed in subsection (a), each eligible State shall be*
3 *entitled to receive from the Secretary for each quarter*
4 *of each fiscal year specified in subsection (c)(1) an*
5 *amount equal to the sum of—*

6 “(A) *an amount equal to the Federal medi-*
7 *cal assistance percentage (as defined in section*
8 *1905(b) of this Act as in effect on the day before*
9 *the date of enactment of this subpart) of the total*
10 *amount expended during such quarter as foster*
11 *care maintenance payments under the child pro-*
12 *tection program under this subpart for children*
13 *in foster family homes or child-care institutions;*
14 *plus*

15 “(B) *an amount equal to the Federal medi-*
16 *cal assistance percentage (as defined in section*
17 *1905(b) of this Act (as so in effect)) of the total*
18 *amount expended during such quarter as adop-*
19 *tion assistance payments under the child protec-*
20 *tion program under this subpart pursuant to*
21 *adoption assistance agreements.*

22 “(2) *ESTIMATES BY THE SECRETARY.*—

23 “(A) *IN GENERAL.*—*The Secretary shall,*
24 *prior to the beginning of each quarter, estimate*
25 *the amount to which a State will be entitled to*

1 receive under paragraph (1) for such quarter,
2 such estimates to be based on—

3 “(i) a report filed by the State contain-
4 ing its estimate of the total sum to be ex-
5 pended in such quarter in accordance with
6 paragraph (1), and stating the amount ap-
7 propriated or made available by the State
8 and its political subdivisions for such ex-
9 penditures in such quarter, and if such
10 amount is less than the State’s propor-
11 tionate share of the total sum of such esti-
12 mated expenditures, the source or sources
13 from which the difference is expected to be
14 derived;

15 “(ii) records showing the number of
16 children in the State receiving assistance
17 under this subpart; and

18 “(iii) such other information as the
19 Secretary may find necessary.

20 “(B) PAYMENTS.—The Secretary shall pay
21 to the States the amounts so estimated under
22 subparagraph (A), reduced or increased to the
23 extent of any overpayment or underpayment
24 which the Secretary determines was made under
25 this subsection to such State for any prior quar-

1 *ter and with respect to which adjustment has not*
2 *already been made under this paragraph.*

3 “(C) *PRO RATA SHARE.*— *The pro rata*
4 *share to which the United States is equitably en-*
5 *titled, as determined by the Secretary, of the net*
6 *amount recovered during any quarter by the*
7 *State or any political subdivision thereof with*
8 *respect to foster care and adoption assistance*
9 *furnished under this subpart shall be considered*
10 *an overpayment to be adjusted under this para-*
11 *graph.*

12 “(3) *ALLOWANCE OR DISALLOWANCE OF*
13 *CLAIM.*—

14 “(A) *IN GENERAL.*—*Within 60 days after*
15 *receipt of a State claim for expenditures pursu-*
16 *ant to paragraph (2)(A), the Secretary shall*
17 *allow, disallow, or defer such claim.*

18 “(B) *NOTICE.*—*Within 15 days after a deci-*
19 *sion to defer a State claim, the Secretary shall*
20 *notify the State of the reasons for the deferral*
21 *and of the additional information necessary to*
22 *determine the allowability of the claim.*

23 “(C) *DECISION.*—*Within 90 days after re-*
24 *ceiving such necessary information (in readily*
25 *reviewable form), the Secretary shall—*

1 “(i) disallow the claim, if able to com-
2 plete the review and determine that the
3 claim is not allowable; or

4 “(ii) in any other case, allow the
5 claim, subject to disallowance (as nec-
6 essary)—

7 “(I) upon completion of the re-
8 view, if it is determined that the claim
9 is not allowable; or

10 “(II) on the basis of findings of
11 an audit or financial management re-
12 view.

13 “(c) *DEFINITIONS.*—As used in this section:

14 “(1) *CHILD PROTECTION AMOUNT.*—The term
15 ‘child protection amount’ means—

16 “(A) \$1,936,000,000 for fiscal year 1996;

17 “(B) \$1,942,000,000 for fiscal year 1997;

18 “(C) \$2,063,000,000 for fiscal year 1998;

19 “(D) \$2,167,000,000 for fiscal year 1999;

20 “(E) \$2,297,000,000 for fiscal year 2000;

21 “(F) \$2,432,000,000 for fiscal year 2001;

22 and

23 “(G) \$2,593,000,000 for fiscal year 2002;

24 “(2) *STATE SHARE.*—

1 “(A) *IN GENERAL.*—The term ‘State share’
2 means the qualified child protection expenses of
3 the State divided by the sum of the qualified
4 child protection expenses of all of the States.

5 “(B) *QUALIFIED CHILD PROTECTION EX-*
6 *PENSES.*—The term ‘qualified child protection
7 expenses’ means, with respect to a State the
8 greater of—

9 “(i) the total amount of—

10 “(I) $\frac{1}{3}$ of the total obligations to
11 the State under the provisions of law
12 specified in clauses (i), (ii), and (iii)
13 of subparagraph (C) for fiscal years
14 1992, 1993, and 1994; and

15 “(II) $\frac{1}{3}$ of the total claims sub-
16 mitted by the State (without regard to
17 disputed claims) under the provision of
18 law specified in subparagraph (C)(iv)
19 for fiscal years 1992, 1993, and 1994;
20 or

21 “(ii) the total amount of—

22 “(I) the total obligations to the
23 State under the provisions of law spec-
24 ified in clauses (i), (ii), and (iii) of

1 subparagraph (C) for fiscal year 1995;

2 and

3 “(II) the total claims submitted
4 by the State (without regard to dis-
5 puted claims) under the provision of
6 law specified in subparagraph (C)(iv)
7 for fiscal year 1995.

8 “(C) PROVISIONS OF LAW.—The provisions
9 of law specified in this subparagraph are the fol-
10 lowing (as in effect on the day before the date of
11 enactment of this subpart):

12 “(i) Section 434 of this Act.

13 “(ii) Section 474(a)(4) of this Act.

14 “(iii) Section 474(a)(3) of this Act.

15 “(d) USE OF GRANT.—

16 “(1) IN GENERAL.—A State to which a grant is
17 made under this section may use the grant in any
18 manner that the State deems appropriate to accom-
19 plish the child protection goals of the State program
20 funded under this subpart.

21 “(2) TIMING OF EXPENDITURES.—A State to
22 which a grant is made under this section for a fiscal
23 year shall expend the total amount of the grant not
24 later than the end of the immediately succeeding fis-
25 cal year.

1 “(3) *RULE OF INTERPRETATION.*—*This subpart*
2 *shall not be interpreted to prohibit short- and long-*
3 *term foster care facilities operated for profit from re-*
4 *ceiving funds provided under this subpart.*

5 “(e) *TIMING OF PAYMENTS.*—*The Secretary shall pay*
6 *each eligible State the amount of the grant payable to the*
7 *State under this section in quarterly installments.*

8 “(f) *PENALTIES.*—

9 “(1) *FOR USE OF GRANT IN VIOLATION OF THIS*
10 *SUBPART.*—*If an audit conducted pursuant to chap-*
11 *ter 75 of title 31, United States Code, finds that an*
12 *amount paid to a State under this section for a fiscal*
13 *year has been used in violation of this subpart, then*
14 *the Secretary shall reduce the amount of the grant*
15 *that would (in the absence of this paragraph) be pay-*
16 *able to the State under this section for the imme-*
17 *diately succeeding fiscal year by the amount so used,*
18 *plus 5 percent of the grant paid under this section to*
19 *the State for such fiscal year.*

20 “(2) *FOR FAILURE TO MAINTAIN EFFORT.*—

21 “(A) *IN GENERAL.*—*If an audit conducted*
22 *pursuant to chapter 75 of title 31, United States*
23 *Code, finds that the amount expended by a State*
24 *(other than from amounts provided by the Fed-*
25 *eral Government) during the fiscal years speci-*

1 *fied in subparagraph (B), to carry out the State*
2 *program funded under this subpart is less than*
3 *the applicable percentage specified in such sub-*
4 *paragraph of the total amount expended by the*
5 *State (other than from amounts provided by the*
6 *Federal Government) during fiscal year 1995*
7 *under subpart 2 of part B and part E of this*
8 *title (as in effect on the day before the date of*
9 *the enactment of this subpart), then the Sec-*
10 *retary shall reduce the amount of the grant that*
11 *would (in the absence of this paragraph) be pay-*
12 *able to the State under this section for the imme-*
13 *diately succeeding fiscal year by the amount of*
14 *the difference, plus 5 percent of the grant paid*
15 *under this section to the State for such fiscal*
16 *year.*

17 *“(B) SPECIFICATION OF FISCAL YEARS AND*
18 *APPLICABLE PERCENTAGES.—The fiscal years*
19 *and applicable percentages specified in this sub-*
20 *paragraph are as follows:*

21 *“(i) For fiscal years 1996 and 1997,*
22 *100 percent.*

23 *“(ii) For fiscal years 1998 through*
24 *2002, 75 percent.*

1 “(3) *FOR FAILURE TO SUBMIT REQUIRED RE-*
2 *PORT.—*

3 “(A) *IN GENERAL.—The Secretary shall re-*
4 *duce by 3 percent the amount of the grant that*
5 *would (in the absence of this paragraph) be pay-*
6 *able to a State under this section for a fiscal*
7 *year if the Secretary determines that the State*
8 *has not submitted the report required by section*
9 *436(b) for the immediately preceding fiscal year,*
10 *within 6 months after the end of the immediately*
11 *preceding fiscal year.*

12 “(B) *RESCISSION OF PENALTY.—The Sec-*
13 *retary shall rescind a penalty imposed on a*
14 *State under subparagraph (A) with respect to a*
15 *report for a fiscal year if the State submits the*
16 *report before the end of the immediately succeed-*
17 *ing fiscal year.*

18 “(4) *FOR FAILURE TO COMPLY WITH SAMPLING*
19 *METHODS REQUIREMENTS.—The Secretary may re-*
20 *duce by not more than 1 percent the amount of the*
21 *grant that would (in the absence of this paragraph)*
22 *be payable to a State under this section for a succeed-*
23 *ing fiscal year if the Secretary determines that the*
24 *State has not complied with the Secretary’s sampling*

1 *methods requirements under section 436(c)(2) during*
2 *the prior fiscal year.*

3 “(5) *STATE FUNDS TO REPLACE REDUCTIONS IN*
4 *GRANT.—A State which has a penalty imposed*
5 *against it under this subsection for a fiscal year shall*
6 *expend additional State funds in an amount equal to*
7 *the amount of the penalty for the purpose of carrying*
8 *out the State program under this subpart during the*
9 *immediately succeeding fiscal year.*

10 “(6) *REASONABLE CAUSE EXCEPTION.—The Sec-*
11 *retary may not impose a penalty on a State under*
12 *this subsection with respect to a requirement if the*
13 *Secretary determines that the State has reasonable*
14 *cause for failing to comply with the requirement.*

15 “(7) *CORRECTIVE COMPLIANCE PLAN.—*

16 “(A) *IN GENERAL.—*

17 “(i) *NOTIFICATION OF VIOLATION.—*
18 *Notwithstanding any other provision of law,*
19 *the Federal Government shall, before assess-*
20 *ing a penalty against a State under this*
21 *subsection, notify the State of the violation*
22 *of law for which the penalty would be as-*
23 *sessed and allow the State the opportunity*
24 *to enter into a corrective compliance plan*
25 *in accordance with this subsection which*

1 *outlines how the State will correct any such*
2 *violations and how the State will insure*
3 *continuing compliance with the require-*
4 *ments of this subpart.*

5 *“(ii) 60-DAY PERIOD TO PROPOSE A*
6 *CORRECTIVE COMPLIANCE PLAN.—Any*
7 *State notified under clause (i) shall have 60*
8 *days in which to submit to the Federal Gov-*
9 *ernment a corrective compliance plan to*
10 *correct any violations described in clause*
11 *(i).*

12 *“(iii) ACCEPTANCE OF PLAN.—The*
13 *Federal Government shall have 60 days to*
14 *accept or reject the State’s corrective com-*
15 *pliance plan and may consult with the*
16 *State during this period to modify the plan.*
17 *If the Federal Government does not accept*
18 *or reject the corrective compliance plan dur-*
19 *ing the period, the corrective compliance*
20 *plan shall be deemed to be accepted.*

21 *“(B) FAILURE TO CORRECT.—If a corrective*
22 *compliance plan is accepted by the Federal Gov-*
23 *ernment, no penalty shall be imposed with re-*
24 *spect to a violation described in this subsection*
25 *if the State corrects the violation pursuant to the*

1 *plan. If a State has not corrected the violation*
2 *in a timely manner under the plan, some or all*
3 *of the penalty shall be assessed.*

4 “(8) *LIMITATION ON AMOUNT OF PENALTY.—*

5 “(A) *IN GENERAL.—In imposing the pen-*
6 *alties described in this subsection, the Secretary*
7 *shall not reduce any quarterly payment to a*
8 *State by more than 25 percent.*

9 “(B) *CARRYFORWARD OF UNRECOVERED*
10 *PENALTIES.—To the extent that subparagraph*
11 *(A) prevents the Secretary from recovering dur-*
12 *ing a fiscal year the full amount of all penalties*
13 *imposed on a State under this subsection for a*
14 *prior fiscal year, the Secretary shall apply any*
15 *remaining amount of such penalties to the grant*
16 *payable to the State under section 431(a) for the*
17 *immediately succeeding fiscal year.*

18 “(g) *TREATMENT OF TERRITORIES.—*

19 “(1) *IN GENERAL.—A territory, as defined in*
20 *section 1108(b)(1), shall carry out a child protection*
21 *program in accordance with the provisions of this*
22 *subpart.*

23 “(2) *PAYMENTS.—Each territory, as so defined,*
24 *shall be entitled to receive from the Secretary for any*
25 *fiscal year an amount, in accordance with section*

1 1108, which shall be used for the purpose of carrying
2 out a child protection program in accordance with the
3 provisions of this subpart.

4 “(h) *LIMITATION ON FEDERAL AUTHORITY.*—Except
5 as expressly provided in this Act, the Secretary may not
6 regulate the conduct of States under this subpart or enforce
7 any provision of this subpart.

8 **“SEC. 432. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.**
9

10 “(a) *IN GENERAL.*—Each State operating a program
11 under this subpart shall make foster care maintenance pay-
12 ments under section 431(b) with respect to a child who
13 would meet the requirements of section 406(a) or of section
14 407 (as in effect on the day before the date of the enactment
15 of this subpart) but for the removal of the child from the
16 home of a relative (specified in section 406(a)(as so in ef-
17 fect)), if—

18 “(1) the removal from the home occurred pursu-
19 ant to a voluntary placement agreement entered into
20 by the child’s parent or legal guardian, or was the re-
21 sult of a judicial determination to the effect that con-
22 tinuation therein would be contrary to the welfare of
23 such child and that reasonable efforts of the type de-
24 scribed in section 430(a)(13) have been made;

1 “(2) such child’s placement and care are the re-
2 sponsibility of—

3 “(A) the State; or

4 “(B) any other public agency with whom
5 the State has made an agreement for the admin-
6 istration of the State program under this sub-
7 part which is still in effect;

8 “(3) such child has been placed in a foster fam-
9 ily home or child-care institution as a result of the
10 voluntary placement agreement or judicial determina-
11 tion referred to in paragraph (1); and

12 “(4) such child—

13 “(A) would have been eligible to receive aid
14 under the eligibility standards under the State
15 plan approved under section 402 (as in effect on
16 the day before the date of the enactment of this
17 subpart and adjusted for inflation, in accordance
18 with regulations issued by the Secretary) in or
19 for the month in which such agreement was en-
20 tered into or court proceedings leading to the re-
21 moval of such child from the home were initi-
22 ated; or

23 “(B) would have received such aid in or for
24 such month if application had been made there-
25 fore, or the child had been living with a relative

1 *specified in section 406(a) (as so in effect) with-*
2 *in 6 months prior to the month in which such*
3 *agreement was entered into or such proceedings*
4 *were initiated, and would have received such aid*
5 *in or for such month if in such month such child*
6 *had been living with such a relative and appli-*
7 *cation therefore had been made.*

8 “(b) *LIMITATION ON FOSTER CARE PAYMENTS.—Fos-*
9 *ter care maintenance payments may be made under this*
10 *subpart only on behalf of a child described in subsection*
11 *(a) of this section who is—*

12 “(1) *in the foster family home of an individual,*
13 *whether the payments therefore are made to such in-*
14 *dividual or to a public or private child-placement or*
15 *child-care agency; or*

16 “(2) *in a child-care institution, whether the pay-*
17 *ments therefore are made to such institution or to a*
18 *public or private child-placement or child-care agen-*
19 *cy, which payments shall be limited so as to include*
20 *in such payments only those items which are included*
21 *in the term ‘foster care maintenance payments’ (as*
22 *defined in section 437(6)).*

23 “(c) *VOLUNTARY PLACEMENTS.—*

24 “(1) *SATISFACTION OF CHILD PROTECTION*
25 *STANDARDS.—Notwithstanding any other provision of*

1 *this section, Federal payments may be made under*
2 *this subpart with respect to amounts expended by any*
3 *State as foster care maintenance payments under this*
4 *subpart, in the case of children removed from their*
5 *homes pursuant to voluntary placement agreements as*
6 *described in subsection (a), only if (at the time such*
7 *amounts were expended) the State has fulfilled all of*
8 *the requirements of section 435(b) or 430(a)(12).*

9 *“(2) REMOVAL IN EXCESS OF 180 DAYS.—No*
10 *Federal payment may be made under this subpart*
11 *with respect to amounts expended by any State as*
12 *foster care maintenance payments, in the case of any*
13 *child who was removed from such child’s home pursu-*
14 *ant to a voluntary placement agreement as described*
15 *in subsection (a) and has remained in voluntary*
16 *placement for a period in excess of 180 days, unless*
17 *there has been a judicial determination by a court of*
18 *competent jurisdiction (within the first 180 days of*
19 *such placement) to the effect that such placement is*
20 *in the best interests of the child.*

21 *“(3) DEEMED REVOCATION OF AGREEMENTS.—*
22 *In any case where—*

23 *“(A) the placement of a minor child in fos-*
24 *ter care occurred pursuant to a voluntary place-*
25 *ment agreement entered into by the parents or*

1 “(c) *CHILDREN WITH SPECIAL NEEDS.*—For purposes
2 of subsection (b), a child meets the requirements of this sub-
3 section if such child—

4 “(1)(A) at the time adoption proceedings were
5 initiated, met the requirements of section 406(a) or
6 section 407 (as in effect on the day before the date of
7 the enactment of this subpart) or would have met such
8 requirements except for such child’s removal from the
9 home of a relative (specified in section 406(a) (as so
10 in effect)), either pursuant to a voluntary placement
11 agreement with respect to which Federal payments
12 are provided under section 431(b) (or 403 (as so in
13 effect)) or as a result of a judicial determination to
14 the effect that continuation therein would be contrary
15 to the welfare of such child;

16 “(B) meets all of the requirements of title XVI
17 with respect to eligibility for supplemental security
18 income benefits; or

19 “(C) is a child whose costs in a foster family
20 home or child-care institution are covered by the fos-
21 ter care maintenance payments being made with re-
22 spect to his or her minor parent;

23 “(2)(A) would have received aid under the eligi-
24 bility standards under the State plan approved under
25 section 402 (as in effect on the day before the date of

1 *the enactment of this subpart, adjusted for inflation,*
2 *in accordance with regulations issued by the Sec-*
3 *retary) in or for the month in which such agreement*
4 *was entered into or court proceedings leading to the*
5 *removal of such child from the home were initiated;*

6 *“(B) would have received such aid in or for such*
7 *month if application had been made therefore, or had*
8 *been living with a relative specified in section 406(a)*
9 *(as so in effect) within 6 months prior to the month*
10 *in which such agreement was entered into or such*
11 *proceedings were initiated, and would have received*
12 *such aid in or for such month if in such month such*
13 *child had been living with such a relative and appli-*
14 *cation therefore had been made; or*

15 *“(C) is a child described in subparagraph (A) or*
16 *(B); and*

17 *“(3) has been determined by the State, pursuant*
18 *to subsection (g) of this section, to be a child with spe-*
19 *cial needs.*

20 *“(d) DETERMINATION OF PAYMENTS.—The amount of*
21 *the payments to be made in any case under subsection (b)*
22 *shall be determined through agreement between the adoptive*
23 *parents and the State or a public or nonprofit private agen-*
24 *cy administering the program under this subpart, which*
25 *shall take into consideration the circumstances of the adopt-*

1 *ing parents and the needs of the child being adopted, and*
2 *may be readjusted periodically, with the concurrence of the*
3 *adopting parents (which may be specified in the adoption*
4 *assistance agreement), depending upon changes in such cir-*
5 *cumstances. However, in no case may the amount of the*
6 *adoption assistance payment exceed the foster care mainte-*
7 *nance payment which would have been paid during the pe-*
8 *riod if the child with respect to whom the adoption assist-*
9 *ance payment is made had been in a foster family home.*

10 “(e) *PAYMENT EXCEPTION.*—*Notwithstanding sub-*
11 *section (d), no payment may be made to parents with re-*
12 *spect to any child who has attained the age of 18 (or, where*
13 *the State determines that the child has a mental or physical*
14 *disability which warrants the continuation of assistance,*
15 *the age of 21), and no payment may be made to parents*
16 *with respect to any child if the State determines that the*
17 *parents are no longer legally responsible for the support of*
18 *the child or if the State determines that the child is no*
19 *longer receiving any support from such parents. Parents*
20 *who have been receiving adoption assistance payments*
21 *under this subpart shall keep the State or public or non-*
22 *profit private agency administering the program under this*
23 *subpart informed of circumstances which would, pursuant*
24 *to this section, make them ineligible for such assistance pay-*

1 *ments, or eligible for assistance payments in a different*
2 *amount.*

3 “(f) *PRE-ADOPTION PAYMENTS.*—*For purposes of this*
4 *subpart, individuals with whom a child who has been deter-*
5 *mined by the State, pursuant to subsection (g), to be a child*
6 *with special needs is placed for adoption in accordance with*
7 *applicable State and local law shall be eligible for adoption*
8 *assistance payments during the period of the placement, on*
9 *the same terms and subject to the same conditions as if such*
10 *individuals had adopted such child.*

11 “(g) *DETERMINATION OF CHILD WITH SPECIAL*
12 *NEEDS.*—*For purposes of this section, a child shall not be*
13 *considered a child with special needs unless—*

14 “(1) *the State has determined that the child can-*
15 *not or should not be returned to the home of the*
16 *child’s parents; and*

17 “(2) *the State had first determined—*

18 “(A) *that there exists with respect to the*
19 *child a specific factor or condition such as the*
20 *child’s ethnic background, age, or membership in*
21 *a minority or sibling group, or the presence of*
22 *factors such as medical conditions or physical,*
23 *mental, or emotional handicaps because of which*
24 *it is reasonable to conclude that such child can-*
25 *not be placed with adoptive parents without pro-*

1 *viding adoption assistance under this subpart or*
2 *medical assistance under title XIX or XXI; and*
3 *“(B) that, except where it would be against*
4 *the best interests of the child because of such fac-*
5 *tors as the existence of significant emotional ties*
6 *with prospective adoptive parents while in the*
7 *care of such parents as a foster child, a reason-*
8 *able, but unsuccessful, effort has been made to*
9 *place the child with appropriate adoptive par-*
10 *ents without providing adoption assistance*
11 *under this section or medical assistance under*
12 *title XIX or XXI.*

13 **“SEC. 434. CITIZEN REVIEW PANELS.**

14 *“(a) ESTABLISHMENT.—Each State to which a grant*
15 *is made under section 431(a) shall establish at least 3 citi-*
16 *zen review panels.*

17 *“(b) COMPOSITION.—Each panel established under*
18 *subsection (a) shall be broadly representative of the commu-*
19 *nity from which drawn.*

20 *“(c) FREQUENCY OF MEETINGS.—Each panel estab-*
21 *lished under subsection (a) shall meet not less frequently*
22 *than quarterly.*

23 *“(d) DUTIES.—*

24 *“(1) IN GENERAL.—Each panel established under*
25 *subsection (a) shall, by examining specific cases, de-*

1 *termine the extent to which the State and local agen-*
2 *cies responsible for carrying out activities under this*
3 *subpart are doing so in accordance with the State*
4 *plan, with the child protection standards set forth in*
5 *section 430(a)(12) and 435, and with any other cri-*
6 *teria that the panel considers important to ensure the*
7 *protection of children.*

8 “(2) *CONFIDENTIALITY.*—*The members and staff*
9 *of any panel established under subsection (a) shall not*
10 *disclose to any person or government any information*
11 *about any specific child protection case with respect*
12 *to which the panel is provided information.*

13 “(e) *STATE ASSISTANCE.*—*Each State that establishes*
14 *a panel under subsection (a) shall afford the panel access*
15 *to any information on any case that the panel desires to*
16 *review, and shall provide the panel with staff assistance in*
17 *performing its duties.*

18 “(f) *REPORTS.*—*Each panel established under sub-*
19 *section (a) shall make a public report of its activities after*
20 *each meeting.*

21 **“SEC. 435. FOSTER CARE PROTECTION REQUIRED FOR AD-**
22 **DITIONAL FEDERAL PAYMENTS.**

23 “(a) *REDUCTION OF GRANT.*—*A State shall not receive*
24 *a grant under section 431(a) unless such State—*

1 “(1) has conducted an inventory of all children
2 who have been in foster care under the responsibility
3 of the State for a period of 6 months preceding the
4 inventory, and determined the appropriateness of,
5 and necessity for, the current foster placement, wheth-
6 er the child can be or should be returned to his par-
7 ents or should be freed for adoption, and the services
8 necessary to facilitate either the return of the child or
9 the placement of the child for adoption or legal guard-
10 ianship; and

11 “(2) has implemented and is operating to the
12 satisfaction of the Secretary—

13 “(A) a statewide information system from
14 which the status, demographic characteristics, lo-
15 cation, and goals for the placement of every child
16 in foster care or who has been in such care with-
17 in the preceding 12 months can readily be deter-
18 mined;

19 “(B) a case review system (as defined in
20 section 437(4)) for each child receiving foster
21 care under the supervision of the State; and

22 “(C) a service program designed to help
23 children, where appropriate, return to families
24 from which they have been removed or be placed
25 for adoption or legal guardianship.

1 “(b) *ADDITIONAL REQUIREMENTS.*—A State shall not
2 receive a grant under section 431(a) unless such State—

3 “(1) has completed an inventory of the type spec-
4 ified in subsection (a)(1);

5 “(2) has implemented and is operating the pro-
6 gram and systems specified in subsection (a)(2); and

7 “(3) has implemented a preplacement preventive
8 service program designed to help children remain
9 with their families.

10 “(c) *PRESUMPTION FOR EXPENDITURES.*—Any
11 amounts expended by a State for the purpose of complying
12 with the requirements of subsection (a) or (b) shall be con-
13 clusively presumed to have been expended for child welfare
14 services.

15 **“SEC. 436. DATA COLLECTION AND REPORTING.**

16 “(a) *ANNUAL REPORTS ON STATE CHILD WELFARE*
17 *GOALS.*—On the date that is 3 years after the effective date
18 of this subpart and annually thereafter, each State to which
19 a grant is made under section 431(a) shall submit to the
20 Secretary a report that contains quantitative information
21 on the extent to which the State is making progress toward
22 achieving the goals of the State child protection program.

23 “(b) *STATE DATA REPORTS.*—

24 “(1) *BIANNUAL REPORTS.*—Each State to which
25 a grant is made under section 431(a) shall bian-

1 *nually submit to the Secretary a report that includes*
2 *the following information with respect to each child*
3 *within the State receiving publicly-supported child*
4 *welfare services under the State program funded*
5 *under this subpart:*

6 *“(A) Whether the child received services*
7 *under the program funded under this subpart.*

8 *“(B) The age, gender, and family income of*
9 *the parents and child.*

10 *“(C) The county of residence of the child.*

11 *“(D) Whether the child was removed from*
12 *the family.*

13 *“(E) Whether the child entered foster care*
14 *under the responsibility of the State.*

15 *“(F) The type of out-of-home care in which*
16 *the child was placed (including institutional*
17 *care, group home care, family foster care, or rel-*
18 *ative placement).*

19 *“(G) The child’s permanency planning goal,*
20 *such as family reunification, kinship care, adop-*
21 *tion, or independent living.*

22 *“(H) Whether the child was released for*
23 *adoption.*

24 *“(I) Whether the child exited from foster*
25 *care, and, if so, the reason for the exit, such as*

1 *return to family, placement with relatives, adop-*
2 *tion, independent living, or death.*

3 “(J) *Other information as required by the*
4 *Secretary and agreed to by a majority of the*
5 *States, including information necessary to en-*
6 *sure a that there is a smooth transition of data*
7 *from the Adoption and Foster Care Analysis and*
8 *Reporting Systems and the National Center on*
9 *Abuse and Neglect Data System to the data re-*
10 *porting system required under this section.*

11 “(2) *ANNUAL REPORTS.—Each State to which a*
12 *grant is made under section 431(a) shall annually*
13 *submit to the Secretary a report that includes the fol-*
14 *lowing information:*

15 “(A) *The number of children reported to the*
16 *State during the year as alleged victims of abuse*
17 *or neglect.*

18 “(B) *The number of children for whom an*
19 *investigation of alleged maltreatment resulted in*
20 *a determination of substantiated abuse or ne-*
21 *glect, the number for whom a report of maltreat-*
22 *ment was unsubstantiated, and the number for*
23 *whom a report of maltreatment was determined*
24 *to be false.*

1 “(C) *The number of families that received*
2 *preventive services.*

3 “(D) *The number of infants abandoned dur-*
4 *ing the year, the number of such infants who*
5 *were adopted, and the length of time between*
6 *abandonment and adoption.*

7 “(E) *The number of deaths of children re-*
8 *sulting from child abuse or neglect.*

9 “(F) *The number of deaths occurring while*
10 *children were in the custody of the State.*

11 “(G) *The number of children served by the*
12 *State independent living program.*

13 “(H) *Quantitative measurements dem-*
14 *onstrating whether the State is making progress*
15 *toward the child protection goals identified by*
16 *the State.*

17 “(I) *The types of maltreatment suffered by*
18 *victims of child abuse and neglect.*

19 “(J) *The number of abused and neglected*
20 *children receiving services.*

21 “(K) *The average length of stay of children*
22 *in out-of-home care.*

23 “(L) *The response of the State to the find-*
24 *ings and recommendations of the citizen review*
25 *panels established under section 434.*

1 “(M) *Other information as required by the*
2 *Secretary and agreed to by a majority of the*
3 *States, including information necessary to en-*
4 *sure a that there is a smooth transition of data*
5 *from the Adoption and Foster Care Analysis and*
6 *Reporting Systems and the National Center on*
7 *Abuse and Neglect Data System to the data re-*
8 *porting system required under this section.*

9 “(c) *AUTHORITY OF STATES TO USE ESTIMATES.—*

10 “(1) *IN GENERAL.—A State may comply with a*
11 *requirement to provide precise numerical information*
12 *described in subsection (b) by submitting an estimate*
13 *which is obtained through the use of scientifically ac-*
14 *ceptable sampling methods.*

15 “(2) *SECRETARIAL REVIEW OF SAMPLING METH-*
16 *ODS.—The Secretary shall periodically review the*
17 *sampling methods used by a State to comply with a*
18 *requirement to provide information described in sub-*
19 *section (b). The Secretary may require a State to re-*
20 *vis the sampling methods so used if such methods do*
21 *not meet scientific standards and shall impose the*
22 *penalty described in section 431(f)(4) upon a State if*
23 *a State has not complied with such requirements.*

24 “(d) *SCOPE OF STATE PROGRAM FUNDED UNDER*
25 *THIS SUBPART.—As used in subsection (b), the term ‘State*

1 program funded under this subpart' includes any equiva-
2 lent State program.

3 **"SEC. 437. DEFINITIONS.**

4 "For purposes of this subpart, the following definitions
5 shall apply:

6 "(1) *ADMINISTRATIVE REVIEW.*—The term 'ad-
7 ministrative review' means a review open to the par-
8 ticipation of the parents of the child, conducted by a
9 panel of appropriate persons at least one of whom is
10 not responsible for the case management of, or the de-
11 livery of services to, either the child or the parents
12 who are the subject of the review.

13 "(2) *ADOPTION ASSISTANCE AGREEMENT.*—The
14 term 'adoption assistance agreement' means a written
15 agreement, binding on the parties to the agreement,
16 between the State, other relevant agencies, and the
17 prospective adoptive parents of a minor child which
18 at a minimum—

19 "(A) specifies the nature and amount of
20 any payments, services, and assistance to be pro-
21 vided under such agreement; and

22 "(B) stipulates that the agreement shall re-
23 main in effect regardless of the State of which
24 the adoptive parents are residents at any given
25 time.

1 *The agreement shall contain provisions for the protec-*
2 *tion (under an interstate compact approved by the*
3 *Secretary or otherwise) of the interests of the child in*
4 *cases where the adoptive parents and child move to*
5 *another State while the agreement is effective.*

6 “(3) *CASE PLAN.*—*The term ‘case plan’ means a*
7 *written document which includes at least the follow-*
8 *ing:*

9 “(A) *A description of the type of home or*
10 *institution in which a child is to be placed, in-*
11 *cluding a discussion of the appropriateness of the*
12 *placement and how the agency which is respon-*
13 *sible for the child plans to carry out the vol-*
14 *untary placement agreement entered into or ju-*
15 *dicial determination made with respect to the*
16 *child in accordance with section 432(a)(1).*

17 “(B) *A plan for assuring that the child re-*
18 *ceives proper care and that services are provided*
19 *to the parents, child, and foster parents in order*
20 *to improve the conditions in the parents’ home,*
21 *facilitate return of the child to his or her own*
22 *home or the permanent placement of the child,*
23 *and address the needs of the child while in foster*
24 *care, including a discussion of the appropriate-*

1 *ness of the services that have been provided to the*
2 *child under the plan.*

3 “(C) *To the extent available and accessible,*
4 *the health and education records of the child, in-*
5 *cluding—*

6 “(i) *the names and addresses of the*
7 *child’s health and educational providers;*

8 “(ii) *the child’s grade level perform-*
9 *ance;*

10 “(iii) *the child’s school record;*

11 “(iv) *assurances that the child’s place-*
12 *ment in foster care takes into account prox-*
13 *imity to the school in which the child is en-*
14 *rolled at the time of placement;*

15 “(v) *a record of the child’s immuniza-*
16 *tions;*

17 “(vi) *the child’s known medical prob-*
18 *lems;*

19 “(vii) *the child’s medications; and*

20 “(viii) *any other relevant health and*
21 *education information concerning the child*
22 *determined to be appropriate by the State.*

23 *Where appropriate, for a child age 16 or over,*
24 *the case plan must also include a written de-*
25 *scription of the programs and services which will*

1 *help such child prepare for the transition from*
2 *foster care to independent living.*

3 “(4) *CASE REVIEW SYSTEM.*—*The term ‘case re-*
4 *view system’ means a procedure for assuring that—*

5 “(A) *each child has a case plan designed to*
6 *achieve placement in the least restrictive (most*
7 *family like) and most appropriate setting avail-*
8 *able and in close proximity to the parents’ home,*
9 *consistent with the best interest and special needs*
10 *of the child, which—*

11 “(i) *if the child has been placed in a*
12 *foster family home or child-care institution*
13 *a substantial distance from the home of the*
14 *parents of the child, or in a State different*
15 *from the State in which such home is lo-*
16 *cated, sets forth the reasons why such place-*
17 *ment is in the best interests of the child;*
18 *and*

19 “(ii) *if the child has been placed in fos-*
20 *ter care outside the State in which the home*
21 *of the parents of the child is located, re-*
22 *quires that, periodically, but not less fre-*
23 *quently than every 12 months, a caseworker*
24 *on the staff of the State in which the home*
25 *of the parents of the child is located, or of*

1 *the State in which the child has been*
2 *placed, visit such child in such home or in-*
3 *stitution and submit a report on such visit*
4 *to the State in which the home of the par-*
5 *ents of the child is located;*

6 “(B) *the status of each child is reviewed pe-*
7 *riodically but no less frequently than once every*
8 *6 months by either a court or by administrative*
9 *review (as defined in paragraph (1)) in order to*
10 *determine the continuing necessity for and ap-*
11 *propriateness of the placement, the extent of com-*
12 *pliance with the case plan, and the extent of*
13 *progress which has been made toward alleviating*
14 *or mitigating the causes necessitating placement*
15 *in foster care, and to project a likely date by*
16 *which the child may be returned to the home or*
17 *placed for adoption or legal guardianship;*

18 “(C) *with respect to each such child, proce-*
19 *dural safeguards will be applied, among other*
20 *things, to assure each child in foster care under*
21 *the supervision of the State of a dispositional*
22 *hearing to be held, in a family or juvenile court*
23 *or another court (including a tribal court) of*
24 *competent jurisdiction, or by an administrative*
25 *body appointed or approved by the court, no*

1 *later than 18 months after the original place-*
2 *ment (and not less frequently than every 12*
3 *months thereafter during the continuation of fos-*
4 *ter care), which hearing shall determine the fu-*
5 *ture status of the child (including whether the*
6 *child should be returned to the parent, should be*
7 *continued in foster care for a specified period,*
8 *should be placed for adoption, or should (because*
9 *of the child's special needs or circumstances) be*
10 *continued in foster care on a permanent or long-*
11 *term basis) and, in the case of a child described*
12 *in subparagraph (A)(ii), whether the out-of-State*
13 *placement continues to be appropriate and in*
14 *the best interests of the child, and, in the case of*
15 *a child who has attained age 16, the services*
16 *needed to assist the child to make the transition*
17 *from foster care to independent living; and pro-*
18 *cedural safeguards shall also be applied with re-*
19 *spect to parental rights pertaining to the re-*
20 *moval of the child from the home of his parents,*
21 *to a change in the child's placement, and to any*
22 *determination affecting visitation privileges of*
23 *parents; and*

24 *“(D) a child's health and education record*
25 *(as described in paragraph (3)(C)) is reviewed*

1 *and updated, and supplied to the foster parent*
2 *or foster care provider with whom the child is*
3 *placed, at the time of each placement of the child*
4 *in foster care.*

5 “(5) *CHILD-CARE INSTITUTION.*—*The term*
6 *‘child-care institution’ means a private child-care in-*
7 *stitution, or a public child-care institution which ac-*
8 *commodates no more than 25 children, which is li-*
9 *icensed by the State in which it is situated or has been*
10 *approved, by the agency of such State responsible for*
11 *licensing or approval of institutions of this type, as*
12 *meeting the standards established for such licensing,*
13 *but the term shall not include detention facilities, for-*
14 *estry camps, training schools, or any other facility*
15 *operated primarily for the detention of children who*
16 *are determined to be delinquent.*

17 “(6) *FOSTER CARE MAINTENANCE PAYMENTS.*—
18 “(A) *IN GENERAL.*—*The term ‘foster care*
19 *maintenance payments’ means payments to*
20 *cover the cost of (and the cost of providing) food,*
21 *clothing, shelter, daily supervision, school sup-*
22 *plies, a child’s personal incidentals, liability in-*
23 *surance with respect to a child, and reasonable*
24 *travel to the child’s home for visitation. In the*
25 *case of institutional care, such term shall include*

1 *the reasonable costs of administration and oper-*
2 *ation of such institution as are necessarily re-*
3 *quired to provide the items described in the pre-*
4 *ceding sentence.*

5 “(B) *SPECIAL RULE.*—*In cases where—*

6 “(i) *a child placed in a foster family*
7 *home or child-care institution is the parent*
8 *of a son or daughter who is in the same*
9 *home or institution; and*

10 “(ii) *payments described in subpara-*
11 *graph (A) are being made under this sub-*
12 *part with respect to such child,*

13 *the foster care maintenance payments made with*
14 *respect to such child as otherwise determined*
15 *under subparagraph (A) shall also include such*
16 *amounts as may be necessary to cover the cost of*
17 *the items described in that subparagraph with*
18 *respect to such son or daughter.*

19 “(7) *FOSTER FAMILY HOME.*—*The term ‘foster*
20 *family home’ means a foster family home for children*
21 *which is licensed by the State in which it is situated*
22 *or has been approved, by the agency of such State*
23 *having responsibility for licensing homes of this type,*
24 *as meeting the standards established for such licens-*
25 *ing.*

1 “(8) *STATE*.—The term ‘State’ means the 50
2 *States and the District of Columbia.*

3 “(9) *VOLUNTARY PLACEMENT*.—The term ‘vol-
4 *untary placement’ means an out-of-home placement of*
5 *a minor, by or with participation of the State, after*
6 *the parents or guardians of the minor have requested*
7 *the assistance of the State and signed a voluntary*
8 *placement agreement.*

9 “(10) *VOLUNTARY PLACEMENT AGREEMENT*.—
10 *The term ‘voluntary placement agreement’ means a*
11 *written agreement, binding on the parties to the*
12 *agreement, between the State, any other agency acting*
13 *on its behalf, and the parents or guardians of a*
14 *minor child which specifies, at a minimum, the legal*
15 *status of the child and the rights and obligations of*
16 *the parents or guardians, the child, and the agency*
17 *while the child is in placement.”.*

18 **SEC. 12702. CONFORMING AMENDMENTS.**

19 (a) *REPEAL OF PART E OF TITLE IV OF THE SOCIAL*
20 *SECURITY ACT*.—Part E of title IV of the Social Security
21 *Act (42 U.S.C. 671–679) is hereby repealed.*

22 (b) *REPEAL OF SECTION 13712 OF THE OMNIBUS*
23 *BUDGET RECONCILIATION ACT OF 1993*.—Section 13712 of
24 *the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C.*
25 *670 note) is hereby repealed.*

1 (c) *REPEAL OF SECTION 435.*—Section 435 of the So-
2 cial Security Act, as amended by section 12701, is repealed
3 on April 1, 1996.

4 **SEC. 12703. EFFECTIVE DATE; TRANSITION RULE.**

5 (a) *IN GENERAL.*—Except as otherwise provided in
6 this subtitle, this subtitle and the amendments made by this
7 subtitle shall take effect as if enacted on October 1, 1995.

8 (b) *TRANSITION RULE.*—

9 (1) *STATE OPTION TO CONTINUE PROGRAMS.*—

10 (A) *9-MONTH EXTENSION.*—A State may
11 continue the State programs under subpart 2 of
12 part B and part E of title IV of the Social Secu-
13 rity Act, as in effect on September 30, 1995 (for
14 purposes of this paragraph, the “State pro-
15 grams”) until June 30, 1996.

16 (B) *NO INDIVIDUAL OR FAMILY ENTITLE-*
17 *MENT UNDER CONTINUED STATE PROGRAMS.*—
18 Notwithstanding any other provision of law or
19 any rule of law, no individual or family is enti-
20 tled to aid under the State programs of any
21 State on or after the date of the enactment of this
22 Act.

23 (C) *LIMITATIONS ON FEDERAL OBLIGA-*
24 *TIONS.*—If a State elects to continue the State
25 programs pursuant to subparagraph (A), the

1 *total obligations of the Federal Government to*
2 *the State under subpart 2 of part B and part E*
3 *of title IV of the Social Security Act (as such*
4 *subpart and part are in effect on September 30,*
5 *1995) after the date of the enactment of this Act*
6 *shall not exceed an amount equal to—*

7 *(I) the grant to the State under*
8 *section 431(a) (as in effect pursuant to*
9 *the amendment made by section 12701*
10 *of this Act)); minus*

11 *(II) any obligations of the Federal*
12 *Government to the State under such*
13 *subpart and part (as in effect on Sep-*
14 *tember 30, 1995) with respect to ex-*
15 *penditures by the State during the pe-*
16 *riod that begins on October 1, 1995,*
17 *and ends on the day before the date of*
18 *the enactment of this Act.*

19 *(D) SUBMISSION OF STATE PLAN FOR FIS-*
20 *CAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT*
21 *LIMITATIONS AND FORMULA.—The submission of*
22 *a plan by a State under section 430(a) of the So-*
23 *cial Security Act (as in effect pursuant to the*
24 *amendment made by section 12701 of this Act)*
25 *for fiscal year 1996 is deemed to constitute the*

1 *State's acceptance of the grant reduction under*
2 *subparagraph (C) of this paragraph (including*
3 *the formula for computing the amount of the re-*
4 *duction).*

5 (2) *CLAIMS, ACTIONS, AND PROCEEDINGS.—The*
6 *amendments made by this subtitle shall not apply*
7 *with respect to—*

8 (A) *powers, duties, functions, rights, claims,*
9 *penalties, or obligations applicable to aid, assist-*
10 *ance, or services provided before the effective date*
11 *of this subtitle under the provisions amended;*
12 *and*

13 (B) *administrative actions and proceedings*
14 *commenced before such date, or authorized before*
15 *such date to be commenced, under such provi-*
16 *sions.*

17 (3) *CLOSING OUT ACCOUNT FOR THOSE PRO-*
18 *GRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY*
19 *THIS SUBTITLE.—In closing out accounts, Federal*
20 *and State officials may use scientifically acceptable*
21 *statistical sampling techniques. Claims made under*
22 *programs which are repealed or substantially amend-*
23 *ed in this subtitle and which involve State expendi-*
24 *tures in cases where assistance or services were pro-*
25 *vided during a prior fiscal year, shall be treated as*

1 *expenditures during fiscal year 1995 for purposes of*
2 *reimbursement even if payment was made by a State*
3 *on or after October 1, 1995. States shall complete the*
4 *filing of all claims no later than September 30, 1997.*
5 *Federal department heads shall—*

6 *(A) use the single audit procedure to review*
7 *and resolve any claims in connection with the*
8 *close out of programs; and*

9 *(B) reimburse States for any payments*
10 *made for assistance or services provided during*
11 *a prior fiscal year from funds for fiscal year*
12 *1995, rather than the funds authorized by this*
13 *subtitle.*

14 ***Subtitle H—Child Care***

15 ***SEC. 12801. SHORT TITLE AND REFERENCES.***

16 *(a) SHORT TITLE.—This subtitle may be cited as the*
17 *“Child Care and Development Block Grant Amendments of*
18 *1995”.*

19 *(b) REFERENCES.—Except as otherwise expressly pro-*
20 *vided, whenever in this subtitle an amendment or repeal*
21 *is expressed in terms of an amendment to, or repeal of, a*
22 *section or other provision, the reference shall be considered*
23 *to be made to a section or other provision of the Child Care*
24 *and Development Block Grant Act of 1990 (42 U.S.C. 9858*
25 *et seq.).*

1 **SEC. 12802. AUTHORIZATION OF APPROPRIATIONS AND EN-**
2 **TITLEMENT AUTHORITY.**

3 (a) *IN GENERAL.*—Section 658B (42 U.S.C. 9858) is
4 amended to read as follows:

5 **“SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.**

6 “There is authorized to be appropriated to carry out
7 this subchapter \$1,000,000,000 for each of the fiscal years
8 1996 through 2002.”.

9 (b) *SOCIAL SECURITY ACT.*—Part A of title IV of the
10 Social Security Act (as amended by section 12101) is
11 amended by adding at the end thereof the following new
12 section:

13 **“SEC. 418. FUNDING FOR CHILD CARE.**

14 “(a) *GENERAL CHILD CARE ENTITLEMENT.*—

15 “(1) *GENERAL ENTITLEMENT.*—Subject to the
16 amount appropriated under paragraph (3), each
17 State shall, for the purpose of providing child care as-
18 sistance, be entitled to payments under a grant under
19 this subsection for a fiscal year in an amount equal
20 to—

21 “(A) the sum of the total amounts of Fed-
22 eral payments for fiscal year 1994 to the State
23 under section—

24 “(i) 402(g)(3)(A) of this Act (as such
25 section was in effect before October 1, 1995)

1 *for amounts expended for child care pursu-*
2 *ant to paragraph (1) of such section;*

3 “(ii) 403(l)(1)(A) of this Act (as so in
4 effect) for amounts expended for child care
5 pursuant to section 402(g)(1)(A) of this Act,
6 in the case of a State with respect to which
7 section 1108 of this Act applies; and

8 “(iii) 403(n) of this Act (as so in ef-
9 fect) for child care services pursuant to sec-
10 tion 402(i) of this Act; or

11 “(B) the average of the sum of the total
12 amount of Federal payments for each of the fis-
13 cal years 1992 through 1994 to the State under
14 the sections referred to in subparagraph (A);

15 *whichever is greater.*

16 “(2) REMAINDER.—

17 “(A) GRANTS.—*The Secretary shall use any*
18 *amounts appropriated for a fiscal year under*
19 *paragraph (3), and remaining after grants are*
20 *awarded under paragraph (1), to make grants to*
21 *States under this paragraph.*

22 “(B) AMOUNT.—*Subject to subparagraph*
23 *(C), the amount of a grant awarded to a State*
24 *for a fiscal year under this paragraph shall be*
25 *based on the formula used for determining the*

1 *amount of Federal payments to the State for fis-*
2 *cal year 1994 under section 403(n) (as such sec-*
3 *tion was in effect before October 1, 1995) for*
4 *child care services pursuant to section 402(i) as*
5 *such amount relates to the total amount of such*
6 *Federal payments to all States for such fiscal*
7 *year.*

8 “(C) *MATCHING REQUIREMENT.*—*The Sec-*
9 *retary shall pay to each eligible State in a fiscal*
10 *year an amount, under a grant under subpara-*
11 *graph (A), equal to the Federal medical assist-*
12 *ance percentage for such State for fiscal year*
13 *1995 (as defined in section 1905(b)) of so much*
14 *of the expenditures by the State for child care in*
15 *such year as exceed the State set-aside for such*
16 *State under subparagraph (A) for such year and*
17 *the amount of State expenditures in fiscal year*
18 *1995 that equal the non-Federal share for the*
19 *programs described in subparagraphs (A), (B)*
20 *and (C) of paragraph (1).*

21 “(3) *APPROPRIATION.*—*There is authorized to be*
22 *appropriated, and there is appropriated, to carry out*
23 *this section—*

24 “(A) \$1,170,000,000 for fiscal year 1996;

25 “(B) \$1,240,000,000 for fiscal year 1997;

1 “(C) \$1,320,000,000 for fiscal year 1998;

2 “(D) \$1,400,000,000 for fiscal year 1999;

3 “(E) \$1,500,000,000 for fiscal year 2000;

4 “(F) \$1,625,000,000 for fiscal year 2001;

5 and

6 “(G) \$1,745,000,000 for fiscal year 2002.

7 “(4) *REDISTRIBUTION*.—With respect to any fis-
8 cal year, if the Secretary determines that amounts
9 under any grant awarded to a State under this sub-
10 section for such fiscal year will not be used by such
11 State for carrying out the purpose for which the grant
12 is made, the Secretary shall make such amounts
13 available for carrying out such purpose to 1 or more
14 other States which apply for such funds to the extent
15 the Secretary determines that such other States will
16 be able to use such additional amounts for carrying
17 out such purpose. Such available amounts shall be re-
18 distributed to a State pursuant to section 402(i) (as
19 such section was in effect before October 1, 1995) by
20 substituting ‘the number of children residing in all
21 States applying for such funds’ for ‘the number of
22 children residing in the United States in the second
23 preceding fiscal year’. Any amount made available to
24 a State from an appropriation for a fiscal year in ac-
25 cordance with the preceding sentence shall, for pur-

1 *poses of this part, be regarded as part of such State's*
2 *payment (as determined under this subsection) for*
3 *such year.*

4 *“(b) USE OF FUNDS.—*

5 *“(1) IN GENERAL.—Amounts received by a State*
6 *under this section shall only be used to provide child*
7 *care assistance.*

8 *“(2) USE FOR CERTAIN POPULATIONS.—A State*
9 *shall ensure that not less than 70 percent of the total*
10 *amount of funds received by the State in a fiscal year*
11 *under this section are used to provide child care as-*
12 *sistance to families who are receiving assistance*
13 *under a State program under this part, families who*
14 *are attempting through work activities to transition*
15 *off of such assistance program, and families who are*
16 *at risk of becoming dependent on such assistance pro-*
17 *gram.*

18 *“(c) APPLICATION OF CHILD CARE AND DEVELOPMENT*
19 *BLOCK GRANT ACT.—Notwithstanding any other provision*
20 *of law, amounts provided to a State under this section shall*
21 *be transferred to the lead agency under the Child Care and*
22 *Development Block Grant Act, integrated by the State into*
23 *the programs established by the State under such Act, and*
24 *be subject to requirements and limitations of such Act.*

25 *“(d) TRANSITION RULE.—*

1 “(1) *IN GENERAL.*—Amounts obligated to a State
2 under this section for fiscal year 1996 shall not ex-
3 ceed—

4 “(A) the amount for which a State is eligi-
5 ble under this section for such fiscal year; less

6 “(B) the amounts obligated to the State for
7 such fiscal year under the provisions of law re-
8 ferred to in subsection (a)(1)(A) (as such provi-
9 sions were in effect on the day before the date of
10 enactment of this section).

11 “(2) *ACCEPTANCE OF LIMITATION.*—The submis-
12 sion of a plan by a State under section 401(a) for fis-
13 cal year 1996 is deemed to constitute the State’s ac-
14 ceptance of the grant reductions under paragraph (1).
15 If amounts are provided to a State under this section
16 prior to the submission of such a State plan, the ac-
17 ceptance of such amounts by the State shall constitute
18 the State’s acceptance of such reductions.”.

19 **SEC. 12803. LEAD AGENCY.**

20 Section 658D(b) (42 U.S.C. 9858b(b)) is amended—

21 (1) in paragraph (1)—

22 (A) in subparagraph (A), by striking
23 “State” the first place that such appears and in-
24 serting “governmental or nongovernmental”; and

1 (B) in subparagraph (C), by inserting
2 “with sufficient time and Statewide distribution
3 of the notice of such hearing,” after “hearing in
4 the State”; and
5 (2) in paragraph (2), by striking the second sen-
6 tence.

7 **SEC. 12804. APPLICATION AND PLAN.**

8 Section 658E (42 U.S.C. 9858c) is amended—

9 (1) in subsection (b)—

10 (A) by striking “implemented—” and all
11 that follows through “(2)” and inserting “imple-
12 mented”; and

13 (B) by striking “for subsequent State
14 plans”;

15 (2) in subsection (c)—

16 (A) in paragraph (2)—

17 (i) in subparagraph (A)—

18 (I) in clause (i) by striking “,
19 other than through assistance provided
20 under paragraph (3)(C),”; and

21 (II) by striking “except” and all
22 that follows through “1992”, and in-
23 serting “and provide a detailed de-
24 scription of the procedures the State

1 *will implement to carry out the re-*
2 *quirements of this subparagraph”;*

3 *(ii) in subparagraph (B)—*

4 *(I) by striking “Provide assur-*
5 *ances” and inserting “Certify”; and*

6 *(II) by inserting before the period*
7 *at the end “and provide a detailed de-*
8 *scription of such procedures”;*

9 *(iii) in subparagraph (C)—*

10 *(I) by striking “Provide assur-*
11 *ances” and inserting “Certify”; and*

12 *(II) by inserting before the period*
13 *at the end “and provide a detailed de-*
14 *scription of how such record is main-*
15 *tained and is made available”;*

16 *(iv) by amending subparagraph (D) to*
17 *read as follows:*

18 *“(D) CONSUMER EDUCATION INFORMA-*
19 *TION.—Certify that the State will collect and*
20 *disseminate to parents of eligible children and*
21 *the general public, consumer education informa-*
22 *tion that will promote informed child care*
23 *choices.”;*

24 *(v) in subparagraph (E), to read as*
25 *follows:*

1 “(E) COMPLIANCE WITH STATE LICENSING
2 REQUIREMENTS.—

3 “(i) IN GENERAL.—Certify that the
4 State has in effect licensing requirements
5 applicable to child care services provided
6 within the State, and provide a detailed de-
7 scription of such requirements and of how
8 such requirements are effectively enforced.
9 Nothing in the preceding sentence shall be
10 construed to require that licensing require-
11 ments be applied to specific types of provid-
12 ers of child care services.

13 “(ii) UNIFORM APPLICATION OF RE-
14 QUIREMENTS.—A certification under clause
15 (i) shall include an assurance by the State
16 that the State shall apply all such licensing
17 requirements in a uniform manner to child
18 care providers of the same type regardless of
19 whether a child care provider is receiving
20 assistance under this subchapter. Nothing in
21 this subchapter shall be construed to require
22 that a State apply, or prohibit a State from
23 applying, licensing requirements with re-
24 spect to a particular type of child care.

1 “(iii) *INDIAN TRIBES AND TRIBAL OR-*
2 *GANIZATIONS.—In lieu of any licensing and*
3 *regulatory requirements applicable under*
4 *State and local law, the Secretary, in con-*
5 *sultation with Indian tribes and tribal or-*
6 *ganizations, shall develop minimum child*
7 *care standards (that appropriately reflect*
8 *tribal needs and available resources) that*
9 *shall be applicable to Indian tribes and*
10 *tribal organization receiving assistance*
11 *under this subchapter.”; and*

12 *(vi) by striking subparagraphs (F),*
13 *(G), (H), (I), and (J) and inserting the fol-*
14 *lowing:*

15 “(F) *MEETING THE NEEDS OF CERTAIN*
16 *POPULATIONS.—Demonstrate the manner in*
17 *which the State will meet the specific child care*
18 *needs of families who are receiving assistance*
19 *under a State program under part A of title IV*
20 *of the Social Security Act, families who are at-*
21 *tempting through work activities to transition off*
22 *of such assistance program, and families who are*
23 *at risk of becoming dependent on such assistance*
24 *program.”;*

25 *(B) in paragraph (3)—*

1 (i) in subparagraph (A), by striking
2 “(B) and (C)” and inserting “(B) through
3 (D)”;

4 (ii) in subparagraph (B)—

5 (I) by striking “.—Subject to the
6 reservation contained in subparagraph
7 (C), the” and inserting “AND RELATED
8 ACTIVITIES.—The”;

9 (II) in clause (i) by striking “;
10 and” at the end and inserting a pe-
11 riod;

12 (III) by striking “for—” and all
13 that follows through “section
14 658E(c)(2)(A)” and inserting “for
15 child care services on sliding fee scale
16 basis, activities that improve the qual-
17 ity or availability of such services, and
18 any other activity that the State deems
19 appropriate”; and

20 (IV) by striking clause (ii);

21 (iii) by amending subparagraph (C) to
22 read as follows:

23 “(C) LIMITATION ON ADMINISTRATIVE
24 COSTS.—Not more than 3 percent of the aggre-
25 gate amount of funds available to the State to

1 *carry out this subchapter by a State in each fis-*
2 *cal year may be expended for administrative*
3 *costs incurred by such State to carry out all of*
4 *its functions and duties under this subchapter.*
5 *As used in the preceding sentence, the term ‘ad-*
6 *ministrative costs’ shall not include the costs of*
7 *providing direct services.’; and*

8 *(iv) by adding at the end thereof the*
9 *following:*

10 “(D) ASSISTANCE FOR CERTAIN FAMI-
11 LIES.—A State shall ensure that a substantial
12 portion of the amounts available (after the State
13 has complied with the requirement of section
14 419(b)(2) of the Social Security Act) to the State
15 to carry out activities this subchapter in each
16 fiscal year is used to provide assistance to low-
17 income working families other than families de-
18 scribed in paragraph (2)(F).”; and 419(b)(2)

19 (C) in paragraph (4)(A)—

20 (i) by striking “provide assurances”
21 and inserting “certify”;

22 (ii) in the first sentence by inserting
23 “and shall provide a summary of the facts
24 relied on by the State to determine that

1 *such rates are sufficient to ensure such ac-*
2 *cess” before the period; and*

3 *(iii) by striking the last sentence.*

4 **SEC. 12805. LIMITATION ON STATE ALLOTMENTS.**

5 *Section 658F(b) (42 U.S.C. 9858d(b)) is amended—*

6 *(1) in paragraph (1), by striking “No” and in-*
7 *serting “Except as provided for in section 658O(c)(6),*
8 *no”; and*

9 *(2) in paragraph (2), by striking “referred to in*
10 *section 658E(c)(2)(F)”.*

11 **SEC. 12806. ACTIVITIES TO IMPROVE THE QUALITY OF**
12 **CHILD CARE.**

13 *Section 658G (42 U.S.C. 9858e) is amended to read*
14 *as follows:*

15 **“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF**
16 **CHILD CARE.**

17 *“A State that receives financial assistance under this*
18 *subchapter, shall use not less than 3 percent of the total*
19 *amounts received in each fiscal year for activities that are*
20 *designed to provide comprehensive consumer education to*
21 *parents and the public, activities that increase parental*
22 *choice, and activities designed to improve the quality and*
23 *availability of child care (such as resource and referral serv-*
24 *ices).”.*

1 **SEC. 12807. ADMINISTRATION AND ENFORCEMENT.**

2 *Section 658I(b) (42 U.S.C. 9858g(b)) is amended—*

3 *(1) in paragraph (1), by striking “, and shall*
4 *have” and all that follows through “(2)”;*

5 *(2) by striking paragraph (2); and*

6 *(3) by redesignating paragraph (3) as para-*
7 *graph (2).*

8 **SEC. 12808. PAYMENTS.**

9 *Section 658J(c) (42 U.S.C. 9858h(c)) is amended—*

10 *(1) by striking “expended” and inserting “obli-*
11 *gated”;* and

12 *(2) by striking “3 fiscal years” and inserting*
13 *“fiscal year”.*

14 **SEC. 12809. ANNUAL REPORT AND AUDITS.**

15 *Section 658K (42 U.S.C. 9858i) is amended—*

16 *(1) in the section heading by striking “ANNUAL*
17 *REPORT” and inserting “REPORTS”;*

18 *(2) in subsection (a), to read as follows:*

19 *“(a) REPORTS.—*

20 *“(1) COLLECTION OF INFORMATION BY*
21 *STATES.—*

22 *“(A) IN GENERAL.—A State that receives*
23 *funds to carry out this subchapter shall collect*
24 *the information described in subparagraph (B)*
25 *on a monthly basis.*

1 “(B) *REQUIRED INFORMATION.*—*The infor-*
2 *mation required under this subparagraph shall*
3 *include, with respect to a family unit receiving*
4 *assistance under this subchapter information*
5 *concerning—*

6 “(i) *family income;*

7 “(ii) *county of residence;*

8 “(iii) *the gender and age of children*
9 *receiving such assistance;*

10 “(iv) *whether the family includes only*
11 *1 parent;*

12 “(v) *the sources of family income, in-*
13 *cluding the amount obtained from (and sep-*
14 *arately identified)—*

15 “(I) *employment, including self-*
16 *employment;*

17 “(II) *cash or other assistance*
18 *under part A of title IV of the Social*
19 *Security Act;*

20 “(III) *housing assistance;*

21 “(IV) *assistance under the Food*
22 *Stamp Act of 1977; and*

23 “(V) *other assistance programs;*

24 “(vi) *the number of months the family*
25 *has received benefits;*

1 “(vii) the type of child care in which
2 the child was enrolled (such as family child
3 care, home care, or center-based child care);

4 “(viii) whether the child care provider
5 involved was a relative;

6 “(ix) the cost of child care for such
7 families; and

8 “(x) the average hours per week of such
9 care;

10 during the period for which such information is
11 required to be submitted.

12 “(C) *SUBMISSION TO SECRETARY.*—A State
13 described in subparagraph (A) shall, on a quar-
14 terly basis, submit the information required to be
15 collected under subparagraph (B) to the Sec-
16 retary.

17 “(D) *SAMPLING.*—The Secretary may dis-
18 approve the information collected by a State
19 under this paragraph if the State uses sampling
20 methods to collect such information.

21 “(2) *BIANNUAL REPORTS.*—Not later than De-
22 cember 31, following the end of the first fiscal year
23 with respect to which the amendments made by the
24 Child Care and Development Block Grants Amend-
25 ments of 1995 apply, and every 6 months thereafter,

1 *a State described in paragraph (1)(A) shall prepare*
2 *and submit to the Secretary a report that includes ag-*
3 *gregate data concerning—*

4 “(A) *the number of child care providers that*
5 *received funding under this subchapter as sepa-*
6 *rately identified based on the types of providers*
7 *listed in section 658Q(5);*

8 “(B) *the monthly cost of child care services,*
9 *and the portion of such cost that is paid for with*
10 *assistance provided under this subchapter, listed*
11 *by the type of child care services provided;*

12 “(C) *the number of payments made by the*
13 *State through vouchers, contracts, cash, and dis-*
14 *regards under public benefit programs, listed by*
15 *the type of child care services provided;*

16 “(D) *the manner in which consumer edu-*
17 *cation information was provided to parents and*
18 *the number of parents to whom such information*
19 *was provided; and*

20 “(E) *the total number (without duplication)*
21 *of children and families served under this sub-*
22 *chapter;*

23 *during the period for which such report is required to*
24 *be submitted.”; and*

25 (2) *in subsection (b)—*

1 (A) in paragraph (1) by striking “a appli-
2 cation” and inserting “an application”;

3 (B) in paragraph (2) by striking “any
4 agency administering activities that receive” and
5 inserting “the State that receives”; and

6 (C) in paragraph (4) by striking “entitles”
7 and inserting “entitled”.

8 **SEC. 12810. ALLOTMENTS.**

9 Section 658O (42 U.S.C. 9858m) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1)

12 (i) by striking “POSSESSIONS” and in-
13 serting “POSSESSIONS”;

14 (ii) by inserting “and” after “States,”;
15 and

16 (iii) by striking “, and the Trust Ter-
17 ritory of the Pacific Islands”; and

18 (B) in paragraph (2), by striking “3 per-
19 cent of the amount appropriated under section
20 658B” and inserting “1 percent of the aggregate
21 amount of funds available to the State to carry
22 out this subchapter”;

23 (2) in subsection (c)—

24 (A) in paragraph (5) by striking “our” and
25 inserting “out”; and

1 (B) by adding at the end thereof the follow-
2 ing new paragraph:

3 “(6) CONSTRUCTION OR RENOVATION OF FACILI-
4 TIES.—

5 “(A) REQUEST FOR USE OF FUNDS.—An
6 Indian tribe or tribal organization may submit
7 to the Secretary a request to use amounts pro-
8 vided under this subsection for construction or
9 renovation purposes.

10 “(B) DETERMINATION.—With respect to a
11 request submitted under subparagraph (A), and
12 except as provided in subparagraph (C), upon a
13 determination by the Secretary that adequate fa-
14 cilities are not otherwise available to an Indian
15 tribe or tribal organization to enable such tribe
16 or organization to carry out child care programs
17 in accordance with this subchapter, and that the
18 lack of such facilities will inhibit the operation
19 of such programs in the future, the Secretary
20 may permit the tribe or organization to use as-
21 sistance provided under this subsection to make
22 payments for the construction or renovation of
23 facilities that will be used to carry out such pro-
24 grams.

1 “(C) *LIMITATION.*—*The Secretary may not*
2 *permit an Indian tribe or tribal organization to*
3 *use amounts provided under this subsection for*
4 *construction or renovation if such use will result*
5 *in a decrease in the level of child care services*
6 *provided by the tribe or organization as com-*
7 *pared to the level of such services provided by the*
8 *tribe or organization in the fiscal year preceding*
9 *the year for which the determination under sub-*
10 *paragraph (A) is being made.*

11 “(D) *UNIFORM PROCEDURES.*—*The Sec-*
12 *retary shall develop and implement uniform pro-*
13 *cedures for the solicitation and consideration of*
14 *requests under this paragraph.”; and*

15 (3) *in subsection (e), by adding at the end there-*
16 *of the following new paragraph:*

17 “(4) *INDIAN TRIBES OR TRIBAL ORGANIZA-*
18 *TIONS.*—*Any portion of a grant or contract made to*
19 *an Indian tribe or tribal organization under sub-*
20 *section (c) that the Secretary determines is not being*
21 *used in a manner consistent with the provision of this*
22 *subchapter in the period for which the grant or con-*
23 *tract is made available, shall be allotted by the Sec-*
24 *retary to other tribes or organizations that have sub-*

1 mitted applications under subsection (c) in accord-
2 ance with their respective needs.”.

3 **SEC. 12811. DEFINITIONS.**

4 Section 658P (42 U.S.C. 9858n) is amended—

5 (1) in paragraph (2), in the first sentence by in-
6 serting “or as a deposit for child care services if such
7 a deposit is required of other children being cared for
8 by the provider” after “child care services”; and

9 (2) by striking paragraph (3);

10 (3) in paragraph (4)(B), by striking “75 per-
11 cent” and inserting “85 percent”;

12 (4) in paragraph (5)(B)—

13 (A) by inserting “great grandchild, sibling
14 (if such provider lives in a separate residence),”
15 after “grandchild,”;

16 (B) by striking “is registered and”; and

17 (C) by striking “State” and inserting “ap-
18 plicable”.

19 (5) by striking paragraph (10);

20 (6) in paragraph (3)—

21 (A) by inserting “or” after “Samoa,”; and

22 (B) by striking “, and the Trust Territory
23 of the Pacific Islands”;

24 (7) in paragraph (14)—

1 (A) by striking “The term” and inserting
2 the following:

3 “(A) *IN GENERAL.—The term*”; and

4 (B) by adding at the end thereof the follow-
5 ing new subparagraph:

6 “(B) *OTHER ORGANIZATIONS.—Such term*
7 *includes a Native Hawaiian Organization, as*
8 *defined in section 4009(4) of the Augustus F.*
9 *Hawkins-Robert T. Stafford Elementary and*
10 *Secondary School Improvement Amendments of*
11 *1988 (20 U.S.C. 4909(4)) and a private non-*
12 *profit organization established for the purpose of*
13 *servicing youth who are Indians or Native Hawai-*
14 *ians.”.*

15 ***Subtitle I—Child Nutrition***
16 ***Programs***

17 ***CHAPTER 1—NATIONAL SCHOOL LUNCH***
18 ***ACT***

19 ***SEC. 12901. TERMINATION OF ADDITIONAL PAYMENT FOR***
20 ***LUNCHES SERVED IN HIGH FREE AND RE-***
21 ***DUCEED PRICE PARTICIPATION SCHOOLS.***

22 *Section 4(b)(2) of the National School Lunch Act (42*
23 *U.S.C. 1753(b)(2)) is amended by inserting before the pe-*
24 *riod at the end the following: “for the 1995 school year and*
25 *1 cent more for each of the 1996 and 1997 school years”.*

1 **SEC. 12902. DIRECT FEDERAL EXPENDITURES.**

2 (a) *ADMINISTRATIVE EXPENSES.*—Section 6(a) of the
3 *National School Lunch Act (42 U.S.C. 1755(a))* is amended
4 *by striking the second and fourth sentences.*

5 (b) *AMOUNT OF COMMODITY ASSISTANCE.*—Section
6 *6(e) of the Act* is amended—

7 (1) *in paragraph (1), by striking subparagraph*
8 *(E); and*

9 (2) *in paragraph (2), by striking the second sen-*
10 *tence and inserting the following: “Each State agency*
11 *shall offer and equitably distribute commodities*
12 *among schools participating in the school lunch pro-*
13 *gram.”.*

14 (c) *BREAKFAST COMMODITY ASSISTANCE.*—Section 6
15 *of the Act* is amended—

16 (1) *by striking subsection (f); and*

17 (2) *by redesignating subsection (g) as subsection*
18 *(f).*

19 (d) *COMMODITY ASSISTANCE.*—

20 (1) *IN GENERAL.*—Section 6(f) of the Act (as re-
21 *designated by subsection (c))* is amended *by striking*
22 *“12 percent” and inserting “8 percent”.*

23 (2) *EFFECTIVE DATE.*—*The amendment made by*
24 *paragraph (1) shall become effective on July 1, 1996.*

1 **SEC. 12903. VALUE OF FOOD ASSISTANCE.**

2 (a) *IN GENERAL.*—Section 6(e)(1) of the National
3 School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—

4 (1) in subparagraph (A)—

5 (A) in the first sentence—

6 (i) by inserting “for free and reduced
7 price meals” after “thereof,”;

8 (ii) by striking “11 cents” and insert-
9 ing “14.5 cents”; and

10 (iii) by striking “1982” and inserting
11 “1998”; and

12 (B) by inserting after the first sentence the
13 following: “The national average value of do-
14 nated foods, or cash payments in lieu thereof, for
15 paid meals, shall be 12 cents, adjusted on July
16 1, 2001, and each July 1 thereafter to reflect
17 changes in the Price Index for Food Used in
18 Schools and Institutions.”; and

19 (2) by striking subparagraph (B) and inserting
20 the following:

21 “(B) *ADJUSTMENTS.*—

22 “(i) *IN GENERAL.*—Except as provided
23 in subparagraph (A), the value of food as-
24 sistance for each meal shall be adjusted each
25 July 1 by the annual percentage change in
26 a 3-month average value of the Price Index

1 *for Foods Used in Schools and Institutions*
2 *for March, April, and May each year.*

3 “(ii) *METHOD OF ADJUSTMENTS.—Ex-*
4 *cept as otherwise provided in this subpara-*
5 *graph, in the case of each school year, the*
6 *Secretary shall—*

7 “(I) *base the adjustment made*
8 *under clause (i) on the amount of the*
9 *unrounded adjustment for the preced-*
10 *ing school year;*

11 “(II) *adjust the resulting amount*
12 *in accordance with clause (i); and*

13 “(III) *round the result to the*
14 *nearest lower cent increment.*

15 “(iii) *ADJUSTMENT ON JANUARY 1,*
16 *1996.—On January 1, 1996, the Secretary*
17 *shall adjust the value of food assistance for*
18 *all meals for the remainder of the school*
19 *year by rounding the previously established*
20 *value of food assistance to the nearest lower*
21 *cent increment.”.*

22 (b) *EFFECTIVE DATE.—The amendment made by sub-*
23 *section (a)(1) shall become effective on July 1, 1996.*

1 **SEC. 12904. REDUCED PRICE LUNCHES.**

2 (a) *MAXIMUM PRICE.*—Section 9(b)(3) of the National
3 *School Lunch Act* (42 U.S.C. 1758(b)(3)) is amended—

4 (1) in the last sentence, by striking “The” and
5 inserting “Except as provided in the succeeding 2
6 sentences, the”; and

7 (2) by adding at the end the following: “In the
8 case of the school year beginning July 1, 2000, the
9 price charged for a reduced price lunch shall not ex-
10 ceed 45 cents. In the case of the school year beginning
11 July 1, 2001, and each school year thereafter, the
12 price charged for a reduced price lunch shall not ex-
13 ceed 50 cents.”.

14 (b) *REDUCED PRICE MEAL PAYMENT.*—Section
15 11(a)(2) of the Act (42 U.S.C. 1759a(a)(2)) is amended—

16 (1) by striking “cents and the” and inserting
17 “cents. Except as provided in the succeeding 2 sen-
18 tences, the”; and

19 (2) by adding at the end the following: “In the
20 case of the school year beginning July 1, 2000, the
21 special assistance factor for reduced price lunches
22 shall be 45 cents less than the special assistance factor
23 for free lunches. In the case of the school year begin-
24 ning July 1, 2001, and each school year thereafter,
25 the special assistance factor for reduced price lunches

1 *shall be 50 cents less than the special assistance factor*
2 *for free lunches.”.*

3 **SEC. 12905. LUNCHESES, BREAKFASTS, AND SUPPLEMENTS.**

4 *(a) IN GENERAL.—Section 11(a)(3)(B) of the National*
5 *School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amend-*
6 *ed—*

7 *(1) by designating the second and third sentences*
8 *as subparagraphs (C) and (D), respectively; and*

9 *(2) by striking subparagraph (D) (as so des-*
10 *ignated) and inserting the following:*

11 *“(D) ROUNDING.—Except as otherwise pro-*
12 *vided in this paragraph, in the case of each*
13 *school year, the Secretary shall—*

14 *“(i) base the adjustment made under*
15 *this paragraph on the amount of the*
16 *unrounded adjustment for the preceding*
17 *school year;*

18 *“(ii) adjust the resulting amount in*
19 *accordance with subparagraphs (B) and*
20 *(C); and*

21 *“(iii) round the result to the nearest*
22 *lower cent increment.*

23 *“(E) ADJUSTMENT ON JANUARY 1 AND JULY*
24 *1, 1996.—The Secretary shall adjust the rates for*
25 *breakfasts and supplements on January 1, 1996,*

1 for the remainder of the school year, and shall
2 adjust the rates for lunches on July 1, 1996, by
3 rounding the previously established rates to the
4 nearest lower cent increment.

5 “(F) ADJUSTMENT FOR 24-MONTH PERIOD
6 BEGINNING JULY 1, 1996.—In the case of the 24-
7 month period beginning July 1, 1996, the na-
8 tional average payment rates for paid lunches,
9 paid breakfasts, and paid supplements shall be
10 the same as the national average payment rate
11 for paid lunches, paid breakfasts, and paid sup-
12 plements, respectively, for the school year begin-
13 ning July 1, 1995, rounded to the nearest lower
14 cent increment.

15 “(G) ADJUSTMENT FOR SCHOOL YEAR BE-
16 GINNING JULY 1, 1998.—In the case of the school
17 year beginning July 1, 1998, the Secretary
18 shall—

19 “(i) base the adjustments made under
20 this paragraph for—

21 “(I) paid lunches and paid break-
22 fasts on the amount of the unrounded
23 adjustment for paid lunches for the
24 school year beginning July 1, 1995;
25 and

1 “(II) paid supplements on the
2 amount of the unrounded adjustment
3 for paid supplements for the school
4 year beginning July 1, 1995;

5 “(ii) adjust each resulting amount in
6 accordance with subparagraph (C); and

7 “(iii) round each result to the nearest
8 lower cent increment.”.

9 (b) *EFFECTIVE DATE.*—The amendments made by sub-
10 section (a) shall become effective on January 1, 1996.

11 **SEC. 12906. SUMMER FOOD SERVICE PROGRAM FOR CHIL-**
12 **DREN.**

13 (a) *ESTABLISHMENT OF PROGRAM.*—Section 13(a) of
14 the National School Lunch Act (42 U.S.C. 1761(a)) is
15 amended—

16 (1) in paragraph (1)—

17 (A) in the first sentence, by striking “initi-
18 ate, maintain, and expand” and insert “initiate
19 and maintain”; and

20 (B) in subparagraph (E) of the second sen-
21 tence, by striking “the Trust Territory of the Pa-
22 cific Islands,”; and

23 (2) in paragraph (7)(A), by striking “Except as
24 provided in subparagraph (C), private” and inserting
25 “Private”.

1 **(b) SERVICE INSTITUTIONS.**—Section 13(b) of the Act
2 *is amended by striking “(b)(1)” and all that follows through*
3 *the end of paragraph (1) and inserting the following:*

4 **“(b) SERVICE INSTITUTIONS.**—

5 **“(1) PAYMENTS.**—

6 **“(A) IN GENERAL.**—*Except as otherwise*
7 *provided in this paragraph, payments to service*
8 *institutions shall equal the full cost of food serv-*
9 *ice operations (which cost shall include the costs*
10 *of obtaining, preparing, and serving food, but*
11 *shall not include administrative costs).*

12 **“(B) MAXIMUM AMOUNTS.**—*Subject to sub-*
13 *paragraph (C), payments to any institution*
14 *under subparagraph (A) shall not exceed—*

15 **“(i) \$1.82 for each lunch and supper**
16 *served;*

17 **“(ii) \$1.13 for each breakfast served;**
18 *and*

19 **“(iii) 46 cents for each meal supple-**
20 *ment served.*

21 **“(C) ADJUSTMENTS.**—*Amounts specified in*
22 *subparagraph (B) shall be adjusted each Janu-*
23 *ary 1 to the nearest lower cent increment in ac-*
24 *cordance with the changes for the 12-month pe-*
25 *riod ending the preceding November 30 in the se-*

1 *ries for food away from home of the Consumer*
2 *Price Index for All Urban Consumers published*
3 *by the Bureau of Labor Statistics of the Depart-*
4 *ment of Labor. Each adjustment shall be based*
5 *on the unrounded adjustment for the prior 12-*
6 *month period.”.*

7 (c) *ADMINISTRATION OF SERVICE INSTITUTIONS.—*

8 *Section 13(b)(2) of the Act is amended—*

9 (1) *in the first sentence, by striking “four meals”*
10 *and inserting “3 meals, or 2 meals and 1 supple-*
11 *ment,”; and*

12 (2) *by striking the second sentence.*

13 (d) *REIMBURSEMENTS.—Section 13(c)(2) of the Act is*
14 *amended—*

15 (1) *by striking subparagraph (A);*

16 (2) *in subparagraph (B)—*

17 (A) *in the first sentence—*

18 (i) *by striking “, and such higher edu-*
19 *cation institutions,”; and*

20 (ii) *by striking “without application”*
21 *and inserting “upon showing residence in*
22 *areas in which poor economic conditions*
23 *exist”; and*

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

25 *“The higher education institutions referred to in*

1 *the preceding sentence shall be eligible to partici-*
2 *pate in the program under this paragraph with-*
3 *out application.”;*

4 *(3) in subparagraph (C)(ii), by striking “severe*
5 *need”;* and

6 *(4) by redesignating subparagraphs (B) through*
7 *(E), as so amended, as subparagraphs (A) through*
8 *(D), respectively.*

9 *(e) PERMITTING OFFER VERSUS SERVE.—Section*
10 *13(f) of the Act is amended—*

11 *(1) by redesignating the first through seventh*
12 *sentences as paragraphs (1) through (7), respectively;*
13 *and*

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

15 *“(8) OFFER VERSUS SERVE.—A school food au-*
16 *thority participating as a service institution may*
17 *permit a child attending a site on school premises op-*
18 *erated directly by the authority to refuse not more*
19 *than 1 item of a meal that the child does not intend*
20 *to consume. A refusal of an offered food item shall not*
21 *affect the amount of payments made under this sec-*
22 *tion to a school for the meal.”.*

23 *(f) EFFECTIVE DATE.—The amendments made by sub-*
24 *section (b) shall become effective on January 1, 1996.*

1 **SEC. 12907. CHILD CARE FOOD PROGRAM.**

2 (a) *ESTABLISHMENT OF PROGRAM.*—Section 17 of the
3 *National School Lunch Act (42 U.S.C. 1766)* is amended—

4 (1) *in the section heading, by striking “AND*
5 *ADULT”*; and

6 (2) *in the first sentence of subsection (a), by*
7 *striking “initiate, maintain, and expand” and insert-*
8 *ing “initiate and maintain”*.

9 (b) *PAYMENTS TO SPONSOR EMPLOYEES.*—Paragraph
10 (2) of the last sentence of section 17(a) of the Act (42 U.S.C.
11 1766(a)) is amended—

12 (1) *by striking “and” at the end of subpara-*
13 *graph (B)*;

14 (2) *by striking the period at the end of subpara-*
15 *graph (C) and inserting “; and”*; and

16 (3) *by adding at the end the following:*

17 “(D) *in the case of a family or group day*
18 *care home sponsoring organization that employs*
19 *more than 1 employee, the organization does not*
20 *base payments to an employee of the organiza-*
21 *tion on the number of family or group day care*
22 *homes recruited, managed, or monitored.”*.

23 (c) *TECHNICAL ASSISTANCE.*—The last sentence of sec-
24 *tion 17(d)(1) of the Act is amended by striking “, and shall*
25 *provide technical assistance” and all that follows through*
26 *“its application”*.

1 (d) *REIMBURSEMENT OF CHILD CARE INSTITU-*
2 *TIONS.*—Section 17(f)(2)(B) of the Act (42 U.S.C.
3 1766(f)(2)(B)) is amended by striking “two meals and two
4 supplements or three meals and one supplement” and in-
5 serting “two meals and one supplement”.

6 (e) *IMPROVED TARGETING OF DAY CARE HOME REIM-*
7 *BURSEMENTS.*—

8 (1) *RESTRUCTURED DAY CARE HOME REIM-*
9 *BURSEMENTS.*—Section 17(f)(3) of the Act is amend-
10 ed by striking “(3)(A) Institutions” and all that fol-
11 lows through the end of subparagraph (A) and insert-
12 ing the following:

13 “*(3) REIMBURSEMENT OF FAMILY OR GROUP DAY*
14 *CARE HOME SPONSORING ORGANIZATIONS.*—

15 “*(A) REIMBURSEMENT FACTOR.*—

16 “*(i) IN GENERAL.*—An institution that
17 participates in the program under this sec-
18 tion as a family or group day care home
19 sponsoring organization shall be provided,
20 for payment to a home sponsored by the or-
21 ganization, reimbursement factors in ac-
22 cordance with this subparagraph for the
23 cost of obtaining and preparing food and
24 prescribed labor costs involved in providing
25 meals under this section.

1 “(ii) *TIER I FAMILY OR GROUP DAY*
2 *CARE HOMES.*—

3 “(I) *DEFINITION.*—*In this para-*
4 *graph, the term ‘tier I family or group*
5 *day care home’ means—*

6 “(aa) *a family or group day*
7 *care home that is located in a geo-*
8 *graphic area, as defined by the*
9 *Secretary based on census data, in*
10 *which at least 50 percent of the*
11 *children residing in the area are*
12 *members of households whose in-*
13 *comes meet the income eligibility*
14 *guidelines for free or reduced price*
15 *meals under section 9;*

16 “(bb) *a family or group day*
17 *care home that is located in an*
18 *area served by a school enrolling*
19 *elementary students in which at*
20 *least 50 percent of the total num-*
21 *ber of children enrolled are cer-*
22 *tified eligible to receive free or re-*
23 *duced price school meals under*
24 *this Act or the Child Nutrition*

1 *Act of 1966 (42 U.S.C. 1771 et*
2 *seq.); or*

3 *“(cc) a family or group day*
4 *care home that is operated by a*
5 *provider whose household meets*
6 *the income eligibility guidelines*
7 *for free or reduced price meals*
8 *under section 9 and whose income*
9 *is verified by the sponsoring orga-*
10 *nization of the home under regu-*
11 *lations established by the Sec-*
12 *retary.*

13 *“(II) REIMBURSEMENT.—Except*
14 *as provided in subclause (III), a tier I*
15 *family or group day care home shall be*
16 *provided reimbursement factors under*
17 *this clause without a requirement for*
18 *documentation of the costs described in*
19 *clause (i), except that reimbursement*
20 *shall not be provided under this*
21 *subclause for meals or supplements*
22 *served to the children of a person act-*
23 *ing as a family or group day care*
24 *home provider unless the children meet*
25 *the income eligibility guidelines for*

1 *free or reduced price meals under sec-*
2 *tion 9.*

3 “(III) *FACTORS.*—*Except as pro-*
4 *vided in subclause (IV), the reimburse-*
5 *ment factors applied to a home referred*
6 *to in subclause (II) shall be the factors*
7 *in effect on the date of enactment of*
8 *this subclause.*

9 “(IV) *ADJUSTMENTS.*—*The reim-*
10 *bursement factors under this subpara-*
11 *graph shall be adjusted on August 1,*
12 *1996, July 1, 1997, and each July 1*
13 *thereafter, to reflect changes in the*
14 *Consumer Price Index for food at home*
15 *for the most recent 12-month period for*
16 *which the data are available. The re-*
17 *imbursement factors under this sub-*
18 *paragraph shall be rounded to the*
19 *nearest lower cent increment and based*
20 *on the unrounded adjustment in effect*
21 *on June 30 of the preceding school*
22 *year.*

23 “(iii) *TIER II FAMILY OR GROUP DAY*
24 *CARE HOMES.*—

25 “(I) *IN GENERAL.*—

1 “(aa) *FACTORS.*—*Except as*
2 *provided in subclause (II), with*
3 *respect to meals or supplements*
4 *served under this clause by a fam-*
5 *ily or group day care home that*
6 *does not meet the criteria set forth*
7 *in clause (ii)(I), the reimburse-*
8 *ment factors shall be 90 cents for*
9 *lunches and suppers, 25 cents for*
10 *breakfasts, and 10 cents for sup-*
11 *plements.*

12 “(bb) *ADJUSTMENTS.*—*The*
13 *factors shall be adjusted on July*
14 *1, 1997, and each July 1 there-*
15 *after, to reflect changes in the*
16 *Consumer Price Index for food at*
17 *home for the most recent 12-month*
18 *period for which the data are*
19 *available. The reimbursement fac-*
20 *tors under this item shall be*
21 *rounded down to the nearest lower*
22 *cent increment and based on the*
23 *unrounded adjustment for the pre-*
24 *ceding 12-month period.*

1 “(cc) *REIMBURSEMENT.*—A
2 *family or group day care home*
3 *shall be provided reimbursement*
4 *factors under this subclause with-*
5 *out a requirement for documenta-*
6 *tion of the costs described in*
7 *clause (i), except that reimburse-*
8 *ment shall not be provided under*
9 *this subclause for meals or supple-*
10 *ments served to the children of a*
11 *person acting as a family or*
12 *group day care home provider un-*
13 *less the children meet the income*
14 *eligibility guidelines for free or re-*
15 *duced price meals under section 9.*

16 “(II) *OTHER FACTORS.*—A *family*
17 *or group day care home that does not*
18 *meet the criteria set forth in clause*
19 *(ii)(I) may elect to be provided reim-*
20 *bursement factors determined in ac-*
21 *cordance with the following require-*
22 *ments:*

23 “(aa) *CHILDREN ELIGIBLE*
24 *FOR FREE OR REDUCED PRICE*
25 *MEALS.*—*In the case of meals or*

1 *supplements served under this*
2 *subsection to children who are*
3 *members of households whose in-*
4 *comes meet the income eligibility*
5 *guidelines for free or reduced price*
6 *meals under section 9, the family*
7 *or group day care home shall be*
8 *provided reimbursement factors*
9 *set by the Secretary in accordance*
10 *with clause (ii)(III).*

11 “(bb) *INELIGIBLE CHIL-*
12 *DREN.—In the case of meals or*
13 *supplements served under this*
14 *subsection to children who are*
15 *members of households whose in-*
16 *comes do not meet the income eli-*
17 *gibility guidelines, the family or*
18 *group day care home shall be pro-*
19 *vided reimbursement factors in*
20 *accordance with subclause (I).*

21 “(III) *INFORMATION AND DETER-*
22 *MINATIONS.—*

23 “(aa) *IN GENERAL.—If a*
24 *family or group day care home*
25 *elects to claim the factors de-*

1 scribed in subclause (II), the fam-
2 ily or group day care home spon-
3 soring organization serving the
4 home shall collect the necessary
5 income information, as deter-
6 mined by the Secretary, from any
7 parent or other caretaker to make
8 the determinations specified in
9 subclause (II) and shall make the
10 determinations in accordance
11 with rules prescribed by the Sec-
12 retary.

13 “(bb) CATEGORICAL ELIGI-
14 BILITY.—In making a determina-
15 tion under item (aa), a family or
16 group day care home sponsoring
17 organization may consider a child
18 participating in or subsidized
19 under, or a child with a parent
20 participating in or subsidized
21 under, a federally or State sup-
22 ported child care or other benefit
23 program with an income eligi-
24 bility limit that does not exceed
25 the eligibility standard for free or

1 *reduced price meals under section*
2 *9 to be a child who is a member*
3 *of a household whose income meets*
4 *the income eligibility guidelines*
5 *under section 9.*

6 “(cc) *FACTORS FOR CHIL-*
7 *DREN ONLY.—A family or group*
8 *day care home may elect to re-*
9 *ceive the reimbursement factors*
10 *prescribed under clause (ii)(III)*
11 *solely for the children participat-*
12 *ing in a program referred to in*
13 *item (bb) if the home elects not to*
14 *have income statements collected*
15 *from parents or other caretakers.*

16 “(IV) *SIMPLIFIED MEAL COUNT-*
17 *ING AND REPORTING PROCEDURES.—*
18 *The Secretary shall prescribe sim-*
19 *plified meal counting and reporting*
20 *procedures for use by a family or*
21 *group day care home that elects to*
22 *claim the factors under subclause (II)*
23 *and by a family or group day care*
24 *home sponsoring organization that*
25 *sponsors the home. The procedures the*

1 *Secretary prescribes may include 1 or*
2 *more of the following:*

3 *“(aa) Setting an annual per-*
4 *centage for each home of the num-*
5 *ber of meals served that are to be*
6 *reimbursed in accordance with the*
7 *reimbursement factors prescribed*
8 *under clause (ii)(III) and an an-*
9 *annual percentage of the number of*
10 *meals served that are to be reim-*
11 *bursed in accordance with the re-*
12 *imbursement factors prescribed*
13 *under subclause (I), based on the*
14 *family income of children enrolled*
15 *in the home in a specified month*
16 *or other period.*

17 *“(bb) Placing a home into 1*
18 *of 2 or more reimbursement cat-*
19 *egories annually based on the per-*
20 *centage of children in the home*
21 *whose households have incomes*
22 *that meet the income eligibility*
23 *guidelines under section 9, with*
24 *each such reimbursement category*
25 *carrying a set of reimbursement*

1 *factors such as the factors pre-*
2 *scribed under clause (ii)(III) or*
3 *subclause (I) or factors established*
4 *within the range of factors pre-*
5 *scribed under clause (ii)(III) and*
6 *subclause (I).*

7 *“(cc) Such other simplified*
8 *procedures as the Secretary may*
9 *prescribe.*

10 *“(V) MINIMUM VERIFICATION RE-*
11 *QUIREMENTS.—The Secretary may es-*
12 *tablish any necessary minimum ver-*
13 *ification requirements.”.*

14 *(2) GRANTS TO STATES TO PROVIDE ASSISTANCE*
15 *TO FAMILY OR GROUP DAY CARE HOMES.—Section*
16 *17(f)(3) of the Act is amended by adding at the end*
17 *the following:*

18 *“(D) GRANTS TO STATES TO PROVIDE AS-*
19 *SISTANCE TO FAMILY OR GROUP DAY CARE*
20 *HOMES.—*

21 *“(i) IN GENERAL.—*

22 *“(I) RESERVATION.—From*
23 *amounts made available to carry out*
24 *this section, the Secretary shall reserve*

1 \$5,000,000 of the amount made avail-
2 able for fiscal year 1996.

3 “(II) *PURPOSE.*—*The Secretary*
4 *shall use the funds made available*
5 *under subclause (I) to provide grants*
6 *to States for the purpose of provid-*
7 *ing—*

8 “(aa) *assistance, including*
9 *grants, to family and day care*
10 *home sponsoring organizations*
11 *and other appropriate organiza-*
12 *tions, in securing and providing*
13 *training, materials, automated*
14 *data processing assistance, and*
15 *other assistance for the staff of the*
16 *sponsoring organizations; and*

17 “(bb) *training and other as-*
18 *istance to family and group day*
19 *care homes in the implementation*
20 *of the amendment to subpara-*
21 *graph (A) made by section*
22 *12907(e)(1) of the Balanced Budg-*
23 *et Act of 1995.*

1 “(ii) *ALLOCATION.*—*The Secretary*
2 *shall allocate from the funds reserved under*
3 *clause (i)(I)—*

4 “(I) *\$30,000 in base funding to*
5 *each State; and*

6 “(II) *any remaining amount*
7 *among the States, based on the number*
8 *of family day care homes participating*
9 *in the program in a State during fis-*
10 *cal year 1994 as a percentage of the*
11 *number of all family day care homes*
12 *participating in the program during*
13 *fiscal year 1994.*

14 “(iii) *RETENTION OF FUNDS.*—*Of the*
15 *amount of funds made available to a State*
16 *for fiscal year 1996 under clause (i), the*
17 *State may retain not to exceed 30 percent*
18 *of the amount to carry out this subpara-*
19 *graph.*

20 “(iv) *ADDITIONAL PAYMENTS.*—*Any*
21 *payments received under this subparagraph*
22 *shall be in addition to payments that a*
23 *State receives under subparagraph (A).”.*

1 (3) *PROVISION OF DATA.*—Section 17(f)(3) of the
2 *Act (as amended by paragraph (2)) is further amend-*
3 *ed by adding at the end the following:*

4 “(E) *PROVISION OF DATA TO FAMILY OR*
5 *GROUP DAY CARE HOME SPONSORING ORGANIZA-*
6 *TIONS.*—

7 “(i) *CENSUS DATA.*—The Secretary
8 *shall provide to each State agency admin-*
9 *istering a child care food program under*
10 *this section data from the most recent de-*
11 *cennial census survey or other appropriate*
12 *census survey for which the data are avail-*
13 *able showing which areas in the State meet*
14 *the requirements of subparagraph*
15 *(A)(ii)(I)(aa). The State agency shall pro-*
16 *vide the data to family or group day care*
17 *home sponsoring organizations located in*
18 *the State.*

19 “(ii) *SCHOOL DATA.*—

20 “(I) *IN GENERAL.*—A State agen-
21 *cy administering the school lunch pro-*
22 *gram under this Act or the school*
23 *breakfast program under the Child Nu-*
24 *trition Act of 1966 (42 U.S.C. 1771 et*
25 *seq.) shall provide to approved family*

1 or group day care home sponsoring or-
2 ganizations a list of schools serving ele-
3 mentary school children in the State in
4 which not less than $\frac{1}{2}$ of the children
5 enrolled are certified to receive free or
6 reduced price meals. The State agency
7 shall collect the data necessary to cre-
8 ate the list annually and provide the
9 list on a timely basis to any approved
10 family or group day care home spon-
11 soring organization that requests the
12 list.

13 “(II) USE OF DATA FROM PRE-
14 CEDING SCHOOL YEAR.—In determin-
15 ing for a fiscal year or other annual
16 period whether a home qualifies as a
17 tier I family or group day care home
18 under subparagraph (A)(ii)(I), the
19 State agency administering the pro-
20 gram under this section, and a family
21 or group day care home sponsoring or-
22 ganization, shall use the most current
23 available data at the time of the deter-
24 mination.

1 “(iii) *DURATION OF DETERMINA-*
2 *TION.—For purposes of this section, a deter-*
3 *mination that a family or group day care*
4 *home is located in an area that qualifies the*
5 *home as a tier I family or group day care*
6 *home (as the term is defined in subpara-*
7 *graph (A)(ii)(I)), shall be in effect for 3*
8 *years (unless the determination is made on*
9 *the basis of census data, in which case the*
10 *determination shall remain in effect until*
11 *more recent census data are available) un-*
12 *less the State agency determines that the*
13 *area in which the home is located no longer*
14 *qualifies the home as a tier I family or*
15 *group day care home.”.*

16 (4) *CONFORMING AMENDMENTS.—Section 17(c)*
17 *of the Act is amended by inserting “except as pro-*
18 *vided in subsection (f)(3),” after “For purposes of this*
19 *section,” each place it appears in paragraphs (1), (2),*
20 *and (3).*

21 (f) *REIMBURSEMENT.—Section 17(f) of the Act is*
22 *amended—*

23 (1) *in paragraph (3)—*

24 (A) *in subparagraph (B), by striking the*
25 *third and fourth sentences; and*

1 (B) in subparagraph (C)—

2 (i) in clause (i)—

3 (I) by striking “(i)”;

4 (II) in the first sentence, by strik-
5 ing “and expansion funds” and all
6 that follows through “rural areas”;

7 (III) by striking the second sen-
8 tence; and

9 (IV) by striking “and expansion
10 funds” each place it appears; and

11 (ii) by striking clause (ii); and

12 (2) by striking paragraph (4).

13 (g) *ELIMINATION OF STATE PAPERWORK AND OUT-
14 REACH BURDEN.*—Section 17 of the Act is amended by
15 striking subsection (k) and inserting the following:

16 “(k) *TRAINING AND TECHNICAL ASSISTANCE.*—A
17 State participating in the program established under this
18 section shall provide sufficient training, technical assist-
19 ance, and monitoring to facilitate effective operation of the
20 program. The Secretary shall assist the State in developing
21 plans to fulfill the requirements of this subsection.”.

22 (h) *MODIFICATION OF ADULT CARE FOOD PRO-
23 GRAM.*—Section 17(o) of the Act is amended—

24 (1) in the first sentence of paragraph (1)—

1 (A) by striking “adult day care centers”
2 and inserting “day care centers for chronically
3 impaired disabled persons”; and

4 (B) by striking “to persons 60 years of age
5 or older or”; and

6 (2) in paragraph (2)—

7 (A) in subparagraph (A)—

8 (i) by striking “adult day care center”
9 and inserting “day care center for chron-
10 ically impaired disabled persons”; and

11 (ii) in clause (i)—

12 (I) by striking “adult”;

13 (II) by striking “adults” and in-
14 serting “persons”; and

15 (III) by striking “or persons 60
16 years of age or older”; and

17 (B) in subparagraph (B), by striking
18 “adult day care services” and inserting “day
19 care services for chronically impaired disabled
20 persons”.

21 (i) *UNNEEDED PROVISIONS.*—Section 17 of the Act is
22 amended—

23 (1) by striking subsections (b) and (q);

1 (2) *by redesignating subsections (c) through (p),*
2 *as so amended, as subsections (b) through (o), respec-*
3 *tively; and*

4 (3) *in subsection (e), as redesignated by para-*
5 *graph (2)—*

6 (A) *in paragraph (2)(A), by striking “sub-*
7 *section (c)” and inserting “subsection (b)”;* and

8 (B) *in paragraph (3)(C), by striking “sub-*
9 *section (d)” and inserting “subsection (c)”.*

10 (j) *CONFORMING AMENDMENTS.—*

11 (1) *Section 11(a)(3)(A)(iv) of the Act (42 U.S.C.*
12 *1759a(a)(3)(A)(iv)) is amended by striking “17(c)”*
13 *and inserting “17(b)”.*

14 (2) *Section 17A(c) of the Act (42 U.S.C.*
15 *1766a(c)) is amended by striking “17(c)(3)” and in-*
16 *serting “17(b)(3)”.*

17 (3) *Section 17B(f) of the Act (42 U.S.C.*
18 *1766b(f)) is amended—*

19 (A) *in the subsection heading, by striking*
20 *“AND ADULT”;* and

21 (B) *in paragraph (1), by striking “and*
22 *adult”.*

23 (4) *Section 18(e)(3)(B) of the Act (42 U.S.C.*
24 *1769(e)(3)(B)) is amended by striking “and adult”.*

1 (5) *Section 25(b)(1)(C) of the Act (42 U.S.C.*
2 *1769f(b)(1)(C)) is amended by striking “and adult”.*

3 (6) *Section 3(1) of the Healthy Meals for*
4 *Healthy Americans Act of 1994 (Public Law 103–*
5 *448) is amended by striking “and adult”.*

6 (k) *EFFECTIVE DATE.—*

7 (1) *IN GENERAL.—Except as provided in para-*
8 *graph (2), the amendments made by this section shall*
9 *become effective on the date of enactment of this Act.*

10 (2) *IMPROVED TARGETING OF DAY CARE HOME*
11 *REIMBURSEMENTS.—The amendments made by para-*
12 *graphs (1), (3), and (4) of subsection (e) shall become*
13 *effective on August 1, 1996.*

14 (3) *REGULATIONS.—*

15 (A) *INTERIM REGULATIONS.—Not later than*
16 *February 1, 1996, the Secretary shall issue in-*
17 *terim regulations to implement—*

18 (i) *the amendments made by para-*
19 *graphs (1), (3), and (4) of subsection (e);*
20 *and*

21 (ii) *section 17(f)(3)(C) of the National*
22 *School Lunch Act (42 U.S.C.*
23 *1766(f)(3)(C)).*

24 (B) *FINAL REGULATIONS.—Not later than*
25 *August 1, 1996, the Secretary shall issue final*

1 *regulations to implement the provisions of law*
2 *referred to in subparagraph (A).*

3 *(l) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM*
4 *PARTICIPATION AND FAMILY DAY CARE LICENSING.—*

5 *(1) IN GENERAL.—The Secretary of Agriculture,*
6 *in conjunction with the Secretary of Health and*
7 *Human Services, shall study the impact of the*
8 *amendments made by this section on—*

9 *(A) the number of family day care homes*
10 *participating in the child care food program es-*
11 *tablished under section 17 of the National School*
12 *Lunch Act (42 U.S.C. 1766);*

13 *(B) the number of day care home sponsor-*
14 *ing organizations participating in the program;*

15 *(C) the number of day care homes that are*
16 *licensed, certified, registered, or approved by*
17 *each State in accordance with regulations issued*
18 *by the Secretary;*

19 *(D) the rate of growth of the numbers re-*
20 *ferred to in subparagraphs (A) through (C);*

21 *(E) the nutritional adequacy and quality of*
22 *meals served in family day care homes that—*

23 *(i) received reimbursement under the*
24 *program prior to the amendments made by*
25 *this section but do not receive reimburse-*

1 *ment after the amendments made by this*
2 *section; or*

3 *(ii) received full reimbursement under*
4 *the program prior to the amendments made*
5 *by this section but do not receive full reim-*
6 *bursement after the amendments made by*
7 *this section; and*

8 *(F) the proportion of low-income children*
9 *participating in the program prior to the*
10 *amendments made by this section and the pro-*
11 *portion of low-income children participating in*
12 *the program after the amendments made by this*
13 *section.*

14 *(2) REQUIRED DATA.—Each State agency par-*
15 *ticipating in the child care food program under sec-*
16 *tion 17 of the National School Lunch Act (42 U.S.C.*
17 *1766) shall submit to the Secretary data on—*

18 *(A) the number of family day care homes*
19 *participating in the program on July 31, 1996,*
20 *and July 31, 1997;*

21 *(B) the number of family day care homes li-*
22 *censed, certified, registered, or approved for serv-*
23 *ice on July 31, 1996, and July 31, 1997; and*

24 *(C) such other data as the Secretary may*
25 *require to carry out this subsection.*

1 **SEC. 12908. PILOT PROJECTS.**

2 (a) *UNIVERSAL FREE PILOT.*—Section 18(d) of the
3 *National School Lunch Act (42 U.S.C. 1769(d))* is amend-
4 *ed—*

5 (1) *by striking paragraph (3); and*

6 (2) *by redesignating paragraphs (4) and (5) as*
7 *paragraphs (3) and (4), respectively.*

8 (b) *DEMO PROJECT OUTSIDE SCHOOL HOURS.*—Sec-
9 *tion 18(e) of the Act* is amended—

10 (1) *in paragraph (1)—*

11 (A) *in subparagraph (A)—*

12 (i) *by striking “(A)”;* and

13 (ii) *by striking “shall” and inserting*
14 *“may”;* and

15 (B) *by striking subparagraph (B); and*

16 (2) *by striking paragraph (5) and inserting the*
17 *following:*

18 “(5) *AUTHORIZATION OF APPROPRIATIONS.*—

19 *There are authorized to be appropriated to carry out*
20 *this subsection such sums as are necessary for each of*
21 *fiscal years 1997 and 1998.”.*

22 **SEC. 12909. INFORMATION CLEARINGHOUSE.**

23 *Section 26 of the National School Lunch Act (42*
24 *U.S.C. 1769g) is repealed.*

1 **CHAPTER 2—CHILD NUTRITION ACT**

2 **SEC. 12921. SPECIAL MILK PROGRAM.**

3 (a) *IN GENERAL.*—Section 3(a) of the Child Nutrition
4 Act of 1966 (42 U.S.C. 1772(a)) is amended—

5 (1) in paragraph (3), by striking “the Trust Ter-
6 ritory of the Pacific Islands” and inserting “the Com-
7 monwealth of the Northern Mariana Islands”; and

8 (2) by striking paragraph (8) and inserting the
9 following:

10 “(8) *ADJUSTMENTS.*—

11 “(A) *IN GENERAL.*—Except as otherwise
12 provided in this paragraph, in the case of each
13 school year, the Secretary shall—

14 “(i) base the adjustment made under
15 paragraph (7) on the amount of the
16 unrounded adjustment for the preceding
17 school year;

18 “(ii) adjust the resulting amount in
19 accordance with paragraph (7); and

20 “(iii) round the result to the nearest
21 lower cent increment.

22 “(B) *ADJUSTMENT ON JANUARY 1, 1996.*—
23 On January 1, 1996, the Secretary shall adjust
24 the minimum rate for the remainder of the
25 school year by rounding the previously estab-

1 *lished minimum rate to the nearest lower cent*
2 *increment.*

3 *“(C) ADJUSTMENT FOR 24-MONTH PERIOD*
4 *BEGINNING JULY 1, 1996.—In the case of the 24-*
5 *month period beginning July 1, 1996, the mini-*
6 *imum rate shall be the same as the minimum*
7 *rate in effect on June 30, 1996.*

8 *“(D) ADJUSTMENT FOR SCHOOL YEAR BE-*
9 *GINNING JULY 1, 1998.—In the case of the school*
10 *year beginning July 1, 1998, the Secretary*
11 *shall—*

12 *“(i) base the adjustment made under*
13 *paragraph (7) on the amount of the*
14 *unrounded adjustment for the minimum*
15 *rate for the school year beginning July 1,*
16 *1995;*

17 *“(ii) adjust the resulting amount to re-*
18 *flect changes in the Producer Price Index*
19 *for Fresh Processed Milk published by the*
20 *Bureau of Labor Statistics of the Depart-*
21 *ment of Labor for the most recent 12-month*
22 *period for which the data are available; and*

23 *“(iii) round the result to the nearest*
24 *lower cent increment.”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
2 *section (a) shall become effective on January 1, 1996.*

3 **SEC. 12922. FREE AND REDUCED PRICE BREAKFASTS.**

4 (a) *IN GENERAL.*—*Section 4(b) of the Child Nutrition*
5 *Act of 1966 (42 U.S.C. 1773(b)) is amended—*

6 (1) *in the second sentence of paragraph (1)(B),*
7 *by striking “, adjusted to the nearest one-fourth cent”*
8 *and inserting “(as adjusted pursuant to section 11(a)*
9 *of the National School Lunch Act (42 U.S.C.*
10 *1759a(a))”;* and

11 (2) *in paragraph (2)(B)(i)—*

12 (A) *by striking “nearest one-fourth cent”*
13 *and inserting “nearest lower cent increment for*
14 *the applicable school year”;* and

15 (B) *by inserting before the period at the end*
16 *the following: “, and the adjustment required by*
17 *this clause shall be based on the unrounded ad-*
18 *justment for the preceding school year”.*

19 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
20 *section (a) shall become effective on July 1, 1996.*

21 **SEC. 12923. CONFORMING REIMBURSEMENT FOR PAID**
22 **BREAKFASTS AND LUNCHES.**

23 (a) *IN GENERAL.*—*The last sentence of section*
24 *4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C.*
25 *1773(b)(1)(B)) is amended by striking “8.25 cents” and all*

1 *that follows through “Act)” and inserting “the same as the*
2 *national average lunch payment for paid meals established*
3 *under section 4(b) of the National School Lunch Act (42*
4 *U.S.C. 1753(b))”.*

5 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
6 *section (a) shall become effective on January 1, 1996.*

7 **SEC. 12924. SCHOOL BREAKFAST PROGRAM AUTHORIZA-**
8 **TION.**

9 *Section 4 of the Child Nutrition Act of 1966 (42 U.S.C.*
10 *1773) is amended by striking subsections (f) and (g).*

11 **SEC. 12925. MISCELLANEOUS PROVISIONS AND DEFINI-**
12 **TIONS.**

13 *Section 15 of the Child Nutrition Act of 1966 (42*
14 *U.S.C. 1784) is amended—*

15 (1) *in paragraph (1), by striking “the Trust Ter-*
16 *ritory of the Pacific Islands” and inserting “the Com-*
17 *monwealth of the Northern Mariana Islands”; and*

18 (2) *in the first sentence of paragraph (3)—*

19 (A) *in subparagraph (A), by inserting*
20 *“and” at the end; and*

21 (B) *by striking “, and (C)” and all that fol-*
22 *lows through “Governor of Puerto Rico”.*

23 **SEC. 12926. NUTRITION EDUCATION AND TRAINING.**

24 (a) *USE OF FUNDS.*—*Section 19(f) of the Child Nutri-*
25 *tion Act of 1966 (42 U.S.C. 1788(f)) is amended—*

1 (1) *in paragraph (1)—*

2 (A) *by striking subparagraph (B); and*

3 (B) *in subparagraph (A)—*

4 (i) *by striking “(A)”;*

5 (ii) *by striking clauses (ix) through*
6 *(xix);*

7 (iii) *by redesignating clauses (i)*
8 *through (viii) and (xx) as subparagraphs*
9 *(A) through (H) and (I), respectively; and*

10 (iv) *in subparagraph (H), as so red-*
11 *esignated, by inserting “and” at the end;*

12 (2) *by striking paragraphs (2) and (4); and*

13 (3) *by redesignating paragraph (3) as para-*
14 *graph (2).*

15 (b) *AUTHORIZATION OF APPROPRIATIONS.—Section*
16 *19(i) of the Act is amended—*

17 (1) *in the first sentence of paragraph (2)(A), by*
18 *striking “and each succeeding fiscal year”;*

19 (2) *by redesignating paragraphs (3) and (4) as*
20 *paragraphs (4) and (5), respectively; and*

21 (3) *by inserting after paragraph (2) the follow-*
22 *ing:*

23 “(2) *FISCAL YEARS 1997 THROUGH 2002.—*

24 “(A) *IN GENERAL.—There are authorized to*
25 *be appropriated to carry out this section*

1 \$10,000,000 for each of fiscal years 1997 through
2 2002.

3 “(B) GRANTS.—

4 “(i) IN GENERAL.—Grants to each
5 State from the amounts made available
6 under subparagraph (A) shall be based on a
7 rate of 50 cents for each child enrolled in
8 schools or institutions within the State, ex-
9 cept that no State shall receive an amount
10 less than \$75,000 per fiscal year.

11 “(ii) INSUFFICIENT FUNDS.—If the
12 amount made available for any fiscal year
13 is insufficient to pay the amount to which
14 each State is entitled under clause (i), the
15 amount of each grant shall be ratably re-
16 duced.”.

17 ***Subtitle J—Food Stamps and***
18 ***Commodity Distribution***

19 ***SEC. 13001. SHORT TITLE.***

20 *This subtitle may be cited as the “Food Stamp Reform*
21 *and Commodity Distribution Act of 1995”.*

22 ***CHAPTER 1—FOOD STAMP PROGRAM***

23 ***SEC. 13011. DEFINITION OF CERTIFICATION PERIOD.***

24 *Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C.*
25 *2012(c)) is amended by striking “Except as provided” and*

1 *all that follows and inserting the following: “The certifi-*
2 *cation period shall not exceed 12 months, except that the*
3 *certification period may be up to 24 months if all adult*
4 *household members are elderly or disabled. A State agency*
5 *shall have at least 1 contact with each certified household*
6 *every 12 months.”.*

7 **SEC. 13012. DEFINITION OF COUPON.**

8 *Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C.*
9 *2012(d)) is amended by striking “or type of certificate” and*
10 *inserting “type of certificate, authorization card, cash or*
11 *check issued in lieu of a coupon, or an access device, includ-*
12 *ing an electronic benefit transfer card or personal identi-*
13 *fication number.”.*

14 **SEC. 13013. TREATMENT OF CHILDREN LIVING AT HOME.**

15 *The second sentence of section 3(i) of the Food Stamp*
16 *Act of 1977 (7 U.S.C. 2012(i)) is amended by striking*
17 *“(who are not themselves parents living with their children*
18 *or married and living with their spouses)”.*

19 **SEC. 13014. OPTIONAL ADDITIONAL CRITERIA FOR SEPA-**
20 **RATE HOUSEHOLD DETERMINATIONS.**

21 *Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C.*
22 *2012(i)) is amended by inserting after the third sentence*
23 *the following: “Notwithstanding the preceding sentences, a*
24 *State may establish criteria that prescribe when individuals*
25 *who live together, and who would be allowed to participate*

1 *as separate households under the preceding sentences, shall*
2 *be considered a single household, without regard to the com-*
3 *mon purchase of food and preparation of meals.”.*

4 **SEC. 13015. ADJUSTMENT OF THRIFTY FOOD PLAN.**

5 *The second sentence of section 3(o) of the Food Stamp*
6 *Act of 1977 (7 U.S.C. 2012(o)) is amended—*

7 *(1) by striking “shall (1) make” and inserting*
8 *the following: “shall—*

9 *“(1) make”;*

10 *(2) by striking “scale, (2) make” and inserting*
11 *“scale;*

12 *“(2) make”;*

13 *(3) by striking “Alaska, (3) make” and inserting*
14 *the following: “Alaska;*

15 *“(3) make”; and*

16 *(4) by striking “Columbia, (4) through” and all*
17 *that follows through the end of the subsection and in-*
18 *serting the following: “Columbia; and*

19 *“(4) on October 1, 1996, and each October 1*
20 *thereafter, adjust the cost of the diet to reflect the cost*
21 *of the diet, in the preceding June, and round the re-*
22 *sult to the nearest lower dollar increment for each*
23 *household size, except that on October 1, 1996, the*
24 *Secretary may not reduce the cost of the diet in effect*
25 *on September 30, 1996.”.*

1 **SEC. 13016. DEFINITION OF HOMELESS INDIVIDUAL.**

2 *Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7*
3 *U.S.C. 2012(s)(2)(C)) is amended by inserting “for not*
4 *more than 90 days” after “temporary accommodation”.*

5 **SEC. 13017. STATE OPTION FOR ELIGIBILITY STANDARDS.**

6 *Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C.*
7 *2014(d)) is amended by striking “(b) The Secretary” and*
8 *inserting the following:*

9 *“(b) ELIGIBILITY STANDARDS.—Except as otherwise*
10 *provided in this Act, the Secretary”.*

11 **SEC. 13018. EARNINGS OF STUDENTS.**

12 *Section 5(d)(7) of the Food Stamp Act of 1977 (7*
13 *U.S.C. 2014(d)(7)) is amended by striking “21” and insert-*
14 *ing “19”.*

15 **SEC. 13019. ENERGY ASSISTANCE.**

16 *(a) IN GENERAL.—Section 5(d) of the Food Stamp Act*
17 *of 1977 (7 U.S.C. 2014(d)) is amended by striking para-*
18 *graph (11) and inserting the following: “(11) a 1-time pay-*
19 *ment or allowance made under a Federal or State law for*
20 *the costs of weatherization or emergency repair or replace-*
21 *ment of an unsafe or inoperative furnace or other heating*
22 *or cooling device,”.*

23 *(b) CONFORMING AMENDMENTS.—*

24 *(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is*
25 *amended—*

26 *(A) in paragraph (1)—*

1 (i) in subparagraph (A), by striking
2 “plan for aid to families with dependent
3 children approved” and inserting “program
4 funded”; and

5 (ii) in subparagraph (B), by striking
6 “, not including energy or utility-cost as-
7 sistance,”;

8 (B) in paragraph (2), by striking subpara-
9 graph (C) and inserting the following:

10 “(C) a payment or allowance described in sub-
11 section (d)(11);”;

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

13 “(4) *THIRD PARTY ENERGY ASSISTANCE PAY-*
14 *MENTS.—*

15 “(A) *ENERGY ASSISTANCE PAYMENTS.—For*
16 *purposes of subsection (d)(1), a payment made*
17 *under a Federal or State law to provide energy*
18 *assistance to a household shall be considered*
19 *money payable directly to the household.*

20 “(B) *ENERGY ASSISTANCE EXPENSES.—For*
21 *purposes of subsection (e)(7), an expense paid on*
22 *behalf of a household under a Federal or State*
23 *law to provide energy assistance shall be consid-*
24 *ered an out-of-pocket expense incurred and paid*
25 *by the household.”.*

1 (2) *Section 2605(f) of the Low-Income Home En-*
2 *ergy Assistance Act of 1981 (42 U.S.C. 8624(f)) is*
3 *amended—*

4 (A) *by striking “(f)(1) Notwithstanding”*
5 *and inserting “(f) Notwithstanding”;*

6 (B) *in paragraph (1), by striking “food*
7 *stamps,”; and*

8 (C) *by striking paragraph (2).*

9 ***SEC. 13020. DEDUCTIONS FROM INCOME.***

10 (a) *IN GENERAL.—Section 5 of the Food Stamp Act*
11 *of 1977 (7 U.S.C. 2014) is amended by striking subsection*
12 *(e) and inserting the following:*

13 “(e) *DEDUCTIONS FROM INCOME.—*

14 “(1) *STANDARD DEDUCTION.—The Secretary*
15 *shall allow a standard deduction for each household*
16 *in the 48 contiguous States and the District of Co-*
17 *lumbia, Alaska, Hawaii, Guam, and the Virgin Is-*
18 *lands of the United States of \$134, \$229, \$189, \$269,*
19 *and \$118, respectively.*

20 “(2) *EARNED INCOME DEDUCTION.—*

21 “(A) *DEFINITION OF EARNED INCOME.—In*
22 *this paragraph, the term ‘earned income’ does*
23 *not include income excluded by subsection (d) or*
24 *any portion of income earned under a work*
25 *supplementation or support program, as defined*

1 *under section 16(b), that is attributable to public*
2 *assistance.*

3 “(B) *DEDUCTION.*—*Except as provided in*
4 *subparagraph (C), a household with earned in-*
5 *come shall be allowed a deduction of 20 percent*
6 *of all earned income (other than income excluded*
7 *by subsection (d)) to compensate for taxes, other*
8 *mandatory deductions from salary, and work ex-*
9 *penses.*

10 “(C) *EXCEPTION.*—*The deduction described*
11 *in subparagraph (B) shall not be allowed with*
12 *respect to determining an overissuance due to the*
13 *failure of a household to report earned income in*
14 *a timely manner.*

15 “(3) *DEPENDENT CARE DEDUCTION.*—

16 “(A) *IN GENERAL.*—*A household shall be*
17 *entitled, with respect to expenses (other than ex-*
18 *cluded expenses described in subparagraph (B))*
19 *for dependent care, to a dependent care deduc-*
20 *tion, the maximum allowable level of which shall*
21 *be \$200 per month for each dependent child*
22 *under 2 years of age and \$175 per month for*
23 *each other dependent, for the actual cost of pay-*
24 *ments necessary for the care of a dependent if the*
25 *care enables a household member to accept or*

1 *continue employment, or training or education*
2 *that is preparatory for employment.*

3 “(B) *EXCLUDED EXPENSES.*—*The excluded*
4 *expenses referred to in subparagraph (A) are—*

5 “(i) *expenses paid on behalf of the*
6 *household by a third party;*

7 “(ii) *amounts made available and ex-*
8 *cluded for the expenses referred to in sub-*
9 *paragraph (A) under subsection (d)(3); and*

10 “(iii) *expenses that are paid under sec-*
11 *tion 6(d)(4).*

12 “(4) *DEDUCTION FOR CHILD SUPPORT PAY-*
13 *MENTS.*—

14 “(A) *IN GENERAL.*—*A household shall be en-*
15 *titled to a deduction for child support payments*
16 *made by a household member to or for an indi-*
17 *vidual who is not a member of the household if*
18 *the household member is legally obligated to*
19 *make the payments.*

20 “(B) *METHODS FOR DETERMINING*
21 *AMOUNT.*—*The Secretary may prescribe by regu-*
22 *lation the methods, including calculation on a*
23 *retrospective basis, that a State agency shall use*
24 *to determine the amount of the deduction for*
25 *child support payments.*

1 “(5) *HOMELESS SHELTER ALLOWANCE.*—A State
2 agency may develop a standard homeless shelter al-
3 lowance, which shall not exceed \$139 per month, for
4 such expenses as may reasonably be expected to be in-
5 curred by households in which all members are home-
6 less individuals but are not receiving free shelter
7 throughout the month. A State agency that develops
8 the allowance may use the allowance in determining
9 eligibility and allotments for the households, except
10 that the State agency may prohibit the use of the al-
11 lowance for households with extremely low shelter
12 costs.

13 “(6) *EXCESS MEDICAL EXPENSE DEDUCTION.*—

14 “(A) *IN GENERAL.*—A household containing
15 an elderly or disabled member shall be entitled,
16 with respect to expenses other than expenses paid
17 on behalf of the household by a third party, to
18 an excess medical expense deduction for the por-
19 tion of the actual costs of allowable medical ex-
20 penses, incurred by the elderly or disabled mem-
21 ber, exclusive of special diets, that exceeds \$35
22 per month.

23 “(B) *METHOD OF CLAIMING DEDUCTION.*—

24 “(i) *IN GENERAL.*—A State agency
25 shall offer an eligible household under sub-

1 *paragraph (A) a method of claiming a de-*
2 *duction for recurring medical expenses that*
3 *are initially verified under the excess medi-*
4 *cal expense deduction in lieu of submitting*
5 *information or verification on actual ex-*
6 *penses on a monthly basis.*

7 “(i) *METHOD.—The method described*
8 *in clause (i) shall—*

9 *“(I) be designed to minimize the*
10 *burden for the eligible elderly or dis-*
11 *abled household member choosing to de-*
12 *duct the recurrent medical expenses of*
13 *the member pursuant to the method;*

14 *“(II) rely on reasonable estimates*
15 *of the expected medical expenses of the*
16 *member for the certification period (in-*
17 *cluding changes that can be reasonably*
18 *anticipated based on available infor-*
19 *mation about the medical condition of*
20 *the member, public or private medical*
21 *insurance coverage, and the current*
22 *verified medical expenses incurred by*
23 *the member); and*

24 *“(III) not require further report-*
25 *ing or verification of a change in med-*

1 ical expenses if such a change has been
2 anticipated for the certification period.

3 “(7) *EXCESS SHELTER EXPENSE DEDUCTION.*—

4 “(A) *IN GENERAL.*—A household shall be
5 entitled, with respect to expenses other than ex-
6 penses paid on behalf of the household by a third
7 party, to an excess shelter expense deduction to
8 the extent that the monthly amount expended by
9 a household for shelter exceeds an amount equal
10 to 50 percent of monthly household income after
11 all other applicable deductions have been al-
12 lowed.

13 “(B) *MAXIMUM AMOUNT OF DEDUCTION.*—

14 In the case of a household that does not contain
15 an elderly or disabled individual, the excess shel-
16 ter expense deduction shall not exceed—

17 “(i) in the 48 contiguous States and
18 the District of Columbia, \$247 per month;
19 and

20 “(ii) in Alaska, Hawaii, Guam, and
21 the Virgin Islands of the United States,
22 \$429, \$353, \$300, and \$182 per month, re-
23 spectively.

24 “(C) *STANDARD UTILITY ALLOWANCE.*—

1 “(i) *IN GENERAL.*—*In computing the*
2 *excess shelter expense deduction, a State*
3 *agency may use a standard utility allow-*
4 *ance in accordance with regulations pro-*
5 *mulgated by the Secretary, except that a*
6 *State agency may use an allowance that*
7 *does not fluctuate within a year to reflect*
8 *seasonal variations.*

9 “(ii) *RESTRICTIONS ON HEATING AND*
10 *COOLING EXPENSES.*—*An allowance for a*
11 *heating or cooling expense may not be used*
12 *in the case of a household that—*

13 “(I) *does not incur a heating or*
14 *cooling expense, as the case may be;*

15 “(II) *does incur a heating or cool-*
16 *ing expense but is located in a public*
17 *housing unit that has central utility*
18 *meters and charges households, with re-*
19 *gard to the expense, only for excess*
20 *utility costs; or*

21 “(III) *shares the expense with,*
22 *and lives with, another individual not*
23 *participating in the food stamp pro-*
24 *gram, another household participating*
25 *in the food stamp program, or both,*

1 *unless the allowance is prorated be-*
2 *tween the household and the other indi-*
3 *vidual, household, or both.*

4 “(iii) *MANDATORY ALLOWANCE.*—

5 “(I) *IN GENERAL.*—*A State agen-*
6 *cy may make the use of a standard*
7 *utility allowance mandatory for all*
8 *households with qualifying utility costs*
9 *if—*

10 “(aa) *the State agency has*
11 *developed 1 or more standards*
12 *that include the cost of heating*
13 *and cooling and 1 or more stand-*
14 *ards that do not include the cost*
15 *of heating and cooling; and*

16 “(bb) *the Secretary finds that*
17 *the standards will not result in*
18 *an increased cost to the Secretary.*

19 “(II) *HOUSEHOLD ELECTION.*—*A*
20 *State agency that has not made the use*
21 *of a standard utility allowance man-*
22 *datory under subclause (I) shall allow*
23 *a household to switch, at the end of a*
24 *certification period, between the stand-*
25 *ard utility allowance and a deduction*

1 *based on the actual utility costs of the*
2 *household.*

3 “(iv) *AVAILABILITY OF ALLOWANCE TO*
4 *RECIPIENTS OF ENERGY ASSISTANCE.—*

5 “(I) *IN GENERAL.—Subject to*
6 *subclause (II), if a State agency elects*
7 *to use a standard utility allowance*
8 *that reflects heating or cooling costs,*
9 *the standard utility allowance shall be*
10 *made available to households receiving*
11 *a payment, or on behalf of which a*
12 *payment is made, under the Low-In-*
13 *come Home Energy Assistance Act of*
14 *1981 (42 U.S.C. 8621 et seq.) or other*
15 *similar energy assistance program, if*
16 *the household still incurs out-of-pocket*
17 *heating or cooling expenses in excess of*
18 *any assistance paid on behalf of the*
19 *household to an energy provider.*

20 “(II) *SEPARATE ALLOWANCE.—A*
21 *State agency may use a separate*
22 *standard utility allowance for house-*
23 *holds on behalf of which a payment de-*
24 *scribed in subclause (I) is made, but*
25 *may not be required to do so.*

1 “(III) STATES NOT ELECTING TO
2 USE SEPARATE ALLOWANCE.—A State
3 agency that does not elect to use a sep-
4 arate allowance but makes a single
5 standard utility allowance available to
6 households incurring heating or cooling
7 expenses (other than a household de-
8 scribed in subclause (I) or (II) of sub-
9 paragraph (C)(ii)) may not be re-
10 quired to reduce the allowance due to
11 the provision (directly or indirectly) of
12 assistance under the Low-Income
13 Home Energy Assistance Act of 1981
14 (42 U.S.C. 8621 et seq.).

15 “(IV) PRORATION OF ASSIST-
16 ANCE.—For the purpose of the food
17 stamp program, assistance provided
18 under the Low-Income Home Energy
19 Assistance Act of 1981 (42 U.S.C. 8621
20 et seq.) shall be considered to be pro-
21 rated over the entire heating or cooling
22 season for which the assistance was
23 provided.”.

24 (b) CONFORMING AMENDMENT.—Section 11(e)(3) of
25 the Act (7 U.S.C. 2020(e)(3)) is amended by striking “.

1 *Under rules prescribed” and all that follows through “veri-*
2 *fies higher expenses”.*

3 **SEC. 13021. VEHICLE ALLOWANCE.**

4 *Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C.*
5 *2014(g)) is amended by striking paragraph (2) and insert-*
6 *ing the following:*

7 *“(2) INCLUDED ASSETS.—*

8 *“(A) IN GENERAL.—Subject to the other*
9 *provisions of this paragraph, the Secretary shall,*
10 *in prescribing inclusions in, and exclusions*
11 *from, financial resources, follow the regulations*
12 *in force as of June 1, 1982 (other than those re-*
13 *lating to licensed vehicles and inaccessible re-*
14 *sources).*

15 *“(B) ADDITIONAL INCLUDED ASSETS.—The*
16 *Secretary shall include in financial resources—*

17 *“(i) any boat, snowmobile, or airplane*
18 *used for recreational purposes;*

19 *“(ii) any vacation home;*

20 *“(iii) any mobile home used primarily*
21 *for vacation purposes;*

22 *“(iv) subject to subparagraph (C), any*
23 *licensed vehicle that is used for household*
24 *transportation or to obtain or continue em-*

1 (2) by redesignating subparagraphs (G) and (H)
2 as subparagraphs (F) and (G), respectively.

3 **SEC. 13023. DOUBLED PENALTIES FOR VIOLATING FOOD**
4 **STAMP PROGRAM REQUIREMENTS.**

5 Section 6(b)(1) of the Food Stamp Act of 1977 (7
6 U.S.C. 2015(b)(1)) is amended—

7 (1) in clause (i), by striking “six months” and
8 inserting “1 year”; and

9 (2) in clause (ii), by striking “1 year” and in-
10 serting “2 years”.

11 **SEC. 13024. DISQUALIFICATION OF CONVICTED INDIVID-**
12 **UALS.**

13 Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7
14 U.S.C. 2015(b)(1)(iii)) is amended—

15 (1) in subclause (II), by striking “or” at the end;

16 (2) in subclause (III), by striking the period at
17 the end and inserting “; or”; and

18 (3) by inserting after subclause (III) the follow-
19 ing:

20 “(IV) a conviction of an offense under sub-
21 section (b) or (c) of section 15 involving an item
22 covered by subsection (b) or (c) of section 15 hav-
23 ing a value of \$500 or more.”.

1 **SEC. 13025. DISQUALIFICATION.**

2 (a) *IN GENERAL.*—Section 6(d) of the Food Stamp Act
3 of 1977 (7 U.S.C. 2015(d)) is amended by striking “(d)(1)
4 Unless otherwise exempted by the provisions” and all that
5 follows through the end of paragraph (1) and inserting the
6 following:

7 “(d) *CONDITIONS OF PARTICIPATION.*—

8 “(1) *WORK REQUIREMENTS.*—

9 “(A) *IN GENERAL.*—No physically and
10 mentally fit individual over the age of 15 and
11 under the age of 60 shall be eligible to partici-
12 pate in the food stamp program if the individ-
13 ual—

14 “(i) refuses, at the time of application
15 and every 12 months thereafter, to register
16 for employment in a manner prescribed by
17 the Secretary;

18 “(ii) refuses without good cause to par-
19 ticipate in an employment and training
20 program under paragraph (4), to the extent
21 required by the State agency;

22 “(iii) refuses without good cause to ac-
23 cept an offer of employment, at a site or
24 plant not subject to a strike or lockout at
25 the time of the refusal, at a wage not less
26 than the higher of—

1 “(I) the applicable Federal or
2 State minimum wage; or

3 “(II) 80 percent of the wage that
4 would have governed had the minimum
5 hourly rate under section 6(a)(1) of the
6 Fair Labor Standards Act of 1938 (29
7 U.S.C. 206(a)(1)) been applicable to
8 the offer of employment;

9 “(iv) refuses without good cause to pro-
10 vide a State agency with sufficient informa-
11 tion to allow the State agency to determine
12 the employment status or the job availabil-
13 ity of the individual;

14 “(v) voluntarily and without good
15 cause—

16 “(I) quits a job; or

17 “(II) reduces work effort and,
18 after the reduction, the individual is
19 working less than 30 hours per week;
20 or

21 “(vi) fails to comply with section 20.

22 “(B) HOUSEHOLD INELIGIBILITY.—If an
23 individual who is the head of a household be-
24 comes ineligible to participate in the food stamp
25 program under subparagraph (A), the household

1 shall, at the option of the State agency, become
2 ineligible to participate in the food stamp pro-
3 gram for a period, determined by the State agen-
4 cy, that does not exceed the lesser of—

5 “(i) the duration of the ineligibility of
6 the individual determined under subpara-
7 graph (C); or

8 “(ii) 180 days.

9 “(C) DURATION OF INELIGIBILITY.—

10 “(i) FIRST VIOLATION.—The first time
11 that an individual becomes ineligible to
12 participate in the food stamp program
13 under subparagraph (A), the individual
14 shall remain ineligible until the later of—

15 “(I) the date the individual be-
16 comes eligible under subparagraph (A);

17 “(II) the date that is 1 month
18 after the date the individual became
19 ineligible; or

20 “(III) a date determined by the
21 State agency that is not later than 3
22 months after the date the individual
23 became ineligible.

24 “(ii) SECOND VIOLATION.—The second
25 time that an individual becomes ineligible

1 to participate in the food stamp program
2 under subparagraph (A), the individual
3 shall remain ineligible until the later of—

4 “(I) the date the individual be-
5 comes eligible under subparagraph (A);

6 “(II) the date that is 3 months
7 after the date the individual became
8 ineligible; or

9 “(III) a date determined by the
10 State agency that is not later than 6
11 months after the date the individual
12 became ineligible.

13 “(iii) *THIRD OR SUBSEQUENT VIOLA-*
14 *TION.—The third or subsequent time that*
15 *an individual becomes ineligible to partici-*
16 *pate in the food stamp program under sub-*
17 *paragraph (A), the individual shall remain*
18 *ineligible until the later of—*

19 “(I) the date the individual be-
20 comes eligible under subparagraph (A);

21 “(II) the date that is 6 months
22 after the date the individual became
23 ineligible;

24 “(III) a date determined by the
25 State agency; or

1 “(IV) *at the option of the State*
2 *agency, permanently.*

3 “(D) *ADMINISTRATION.—*

4 “(i) *GOOD CAUSE.—The Secretary*
5 *shall determine the meaning of good cause*
6 *for the purpose of this paragraph.*

7 “(ii) *VOLUNTARY QUIT.—The Secretary*
8 *shall determine the meaning of voluntarily*
9 *quitting and reducing work effort for the*
10 *purpose of this paragraph.*

11 “(iii) *DETERMINATION BY STATE*
12 *AGENCY.—*

13 “(I) *IN GENERAL.—Subject to*
14 *subclause (II) and clauses (i) and (ii),*
15 *a State agency shall determine—*

16 “(aa) *the meaning of any*
17 *term in subparagraph (A);*

18 “(bb) *the procedures for de-*
19 *termining whether an individual*
20 *is in compliance with a require-*
21 *ment under subparagraph (A);*
22 *and*

23 “(cc) *whether an individual*
24 *is in compliance with a require-*
25 *ment under subparagraph (A).*

1 “(II) *NOT LESS RESTRICTIVE.*—A
2 *State agency may not determine a*
3 *meaning, procedure, or determination*
4 *under subclause (I) to be less restrictive*
5 *than a comparable meaning, proce-*
6 *dure, or determination under a State*
7 *program funded under part A of title*
8 *IV of the Social Security Act (42*
9 *U.S.C. 601 et seq.).*

10 “(iv) *STRIKE AGAINST THE GOVERN-*
11 *MENT.*—*For the purpose of subparagraph*
12 *(A)(v), an employee of the Federal Govern-*
13 *ment, a State, or a political subdivision of*
14 *a State, who is dismissed for participating*
15 *in a strike against the Federal Government,*
16 *the State, or the political subdivision of the*
17 *State shall be considered to have voluntarily*
18 *quit without good cause.*

19 “(v) *SELECTING A HEAD OF HOUSE-*
20 *HOLD.*—

21 “(I) *IN GENERAL.*—*For the pur-*
22 *pose of this paragraph, the State agen-*
23 *cy shall allow the household to select*
24 *any adult parent of a child in the*
25 *household as the head of the household*

1 *if all adult household members making*
2 *application under the food stamp pro-*
3 *gram agree to the selection.*

4 “(II) *TIME FOR MAKING DESIGNA-*
5 *TION.—A household may designate the*
6 *head of the household under subclause*
7 *(I) each time the household is certified*
8 *for participation in the food stamp*
9 *program, but may not change the des-*
10 *ignation during a certification period*
11 *unless there is a change in the com-*
12 *position of the household.*

13 “(vi) *CHANGE IN HEAD OF HOUSE-*
14 *HOLD.—If the head of a household leaves the*
15 *household during a period in which the*
16 *household is ineligible to participate in the*
17 *food stamp program under subparagraph*
18 *(B)—*

19 “(I) *the household shall, if other-*
20 *wise eligible, become eligible to partici-*
21 *pate in the food stamp program; and*

22 “(II) *if the head of the household*
23 *becomes the head of another household,*
24 *the household that becomes headed by*
25 *the individual shall become ineligible*

1 to participate in the food stamp pro-
2 gram for the remaining period of ineli-
3 gibility.”.

4 (b) *CONFORMING AMENDMENT.*—

5 (1) *The second sentence of section 17(b)(2) of the*
6 *Act (7 U.S.C. 2026(b)(2)) is amended by striking*
7 *“6(d)(1)(i)” and inserting “6(d)(1)(A)(i)”.*

8 (2) *Section 20 of the Act (7 U.S.C. 2029) is*
9 *amended by striking subsection (f) and inserting the*
10 *following:*

11 *“(f) DISQUALIFICATION.—An individual or a house-*
12 *hold may become ineligible under section 6(d)(1) to partici-*
13 *pate in the food stamp program for failing to comply with*
14 *this section.”.*

15 **SEC. 13026. CARETAKER EXEMPTION.**

16 *Section 6(d)(2) of the Food Stamp Act of 1977 (7*
17 *U.S.C. 2015(d)(2)) is amended by striking subparagraph*
18 *(B) and inserting the following: “(B) a parent or other*
19 *member of a household with responsibility for the care of*
20 *(i) a dependent child under the age of 6 or any lower age*
21 *designated by the State agency that is not under the age*
22 *of 1, or (ii) an incapacitated person;”.*

23 **SEC. 13027. EMPLOYMENT AND TRAINING.**

24 (a) *IN GENERAL.*—*Section 6(d)(4) of the Food Stamp*
25 *Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—*

1 (1) *in subparagraph (A)—*

2 (A) *by striking “Not later than April 1,*
3 *1987, each” and inserting “Each”;*

4 (B) *by inserting “work,” after “skills, train-*
5 *ing,”; and*

6 (C) *by adding at the end the following:*
7 *“Each component of an employment and train-*
8 *ing program carried out under this paragraph*
9 *shall be delivered through a statewide workforce*
10 *development system, unless the component is not*
11 *available locally through the statewide workforce*
12 *development system.”;*

13 (2) *in subparagraph (B)—*

14 (A) *in the matter preceding clause (i), by*
15 *striking the colon at the end and inserting the*
16 *following: “, except that the State agency shall*
17 *retain the option to apply employment require-*
18 *ments prescribed under this subparagraph to a*
19 *program applicant at the time of application.”;*

20 (B) *in clause (i), by striking “with terms*
21 *and conditions” and all that follows through*
22 *“time of application”; and*

23 (C) *in clause (iv)—*

24 (i) *by striking subclauses (I) and (II);*

25 and

1 (ii) by redesignating subclauses (III)
2 and (IV) as subclauses (I) and (II), respec-
3 tively;

4 (3) in subparagraph (D)—

5 (A) in clause (i), by striking “to which the
6 application” and all that follows through “30
7 days or less”;

8 (B) in clause (ii), by striking “but with re-
9 spect” and all that follows through “child care”;
10 and

11 (C) in clause (iii), by striking “, on the
12 basis of” and all that follows through “clause
13 (ii)” and inserting “the exemption continues to
14 be valid”;

15 (4) in subparagraph (E), by striking the third
16 sentence;

17 (5) in subparagraph (G)—

18 (A) by striking “(G)(i) The State” and in-
19 serting “(G) The State”; and

20 (B) by striking clause (ii);

21 (6) in subparagraph (H), by striking “(H)(i)
22 The Secretary” and all that follows through “(ii) Fed-
23 eral funds” and inserting “(H) Federal funds”;

24 (7) in subparagraph (I)(i)(II), by striking “, or
25 was in operation,” and all that follows through “So-

1 *cial Security Act” and inserting the following: “), ex-*
2 *cept that no such payment or reimbursement shall ex-*
3 *ceed the applicable local market rate”;*

4 *(8)(A) by striking subparagraphs (K) and (L)*
5 *and inserting the following:*

6 *“(K) LIMITATION ON FUNDING.—Notwith-*
7 *standing any other provision of this paragraph,*
8 *the amount of funds a State agency uses to carry*
9 *out this paragraph (including under subpara-*
10 *graph (I)) for participants who are receiving*
11 *benefits under a State program funded under*
12 *part A of title IV of the Social Security Act (42*
13 *U.S.C. 601 et seq.) shall not exceed the amount*
14 *of funds the State agency used in fiscal year*
15 *1995 to carry out this paragraph for partici-*
16 *pants who were receiving benefits in fiscal year*
17 *1995 under a State program funded under part*
18 *A of title IV of the Act (42 U.S.C. 601 et seq.).”;*
19 *and*

20 *(B) by redesignating subparagraphs (M)*
21 *and (N) as subparagraphs (L) and (M), respec-*
22 *tively; and*

23 *(9) in subparagraph (L), as redesignated by*
24 *paragraph (8)(B)—*

1 (A) by striking “(L)(i) The Secretary” and
2 inserting “(L) The Secretary”; and

3 (B) by striking clause (ii).

4 (b) FUNDING.—Section 16(h) of the Act (7 U.S.C.
5 2025(h)) is amended by striking “(h)(1)(A) The Secretary”
6 and all that follows through the end of paragraph (1) and
7 inserting the following:

8 “(h) FUNDING OF EMPLOYMENT AND TRAINING PRO-
9 GRAMS.—

10 “(1) IN GENERAL.—

11 “(A) AMOUNTS.—To carry out employment
12 and training programs, the Secretary shall re-
13 serve for allocation to State agencies from funds
14 made available for each fiscal year under section
15 18(a)(1) the amount of—

16 “(i) for fiscal year 1996, \$77,000,000;

17 “(ii) for fiscal year 1997, \$80,000,000;

18 “(iii) for fiscal year 1998, \$83,000,000;

19 “(iv) for fiscal year 1999, \$86,000,000;

20 “(v) for fiscal year 2000, \$89,000,000;

21 “(vi) for fiscal year 2001, \$92,000,000;

22 and

23 “(vii) for fiscal year 2002,
24 \$95,000,000.

1 “(B) *ALLOCATION.*—*The Secretary shall al-*
2 *locate the amounts reserved under subparagraph*
3 *(A) among the State agencies using a reasonable*
4 *formula (as determined by the Secretary) that*
5 *gives consideration to the population in each*
6 *State affected by section 6(o).*

7 “(C) *REALLOCATION.*—

8 “(i) *NOTIFICATION.*—*A State agency*
9 *shall promptly notify the Secretary if the*
10 *State agency determines that the State*
11 *agency will not expend all of the funds allo-*
12 *cated to the State agency under subpara-*
13 *graph (B).*

14 “(ii) *REALLOCATION.*—*On notification*
15 *under clause (i), the Secretary shall reallo-*
16 *cate the funds that the State agency will not*
17 *expend as the Secretary considers appro-*
18 *priate and equitable.*

19 “(D) *MINIMUM ALLOCATION.*—*Notwith-*
20 *standing subparagraphs (A) through (C), the*
21 *Secretary shall ensure that each State agency op-*
22 *erating an employment and training program*
23 *shall receive not less than \$50,000 in each fiscal*
24 *year.”.*

1 (c) *ADDITIONAL MATCHING FUNDS.*—Section 16(h)(2)
2 *of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting*
3 *before the period at the end the following: “, including the*
4 *costs for case management and casework to facilitate the*
5 *transition from economic dependency to self-sufficiency*
6 *through work”.*

7 (d) *REPORTS.*—Section 16(h) of the Act (7 U.S.C.
8 2025(h)) is amended—

9 (1) *in paragraph (5)—*

10 (A) *by striking “(5)(A) The Secretary” and*
11 *inserting “(5) The Secretary”; and*

12 (B) *by striking subparagraph (B); and*

13 (2) *by striking paragraph (6).*

14 ***SEC. 13028. COMPARABLE TREATMENT FOR DISQUALIFICA-***
15 ***TION.***

16 (a) *IN GENERAL.*—Section 6 of the Food Stamp Act
17 *of 1977 (7 U.S.C. 2015) is amended—*

18 (1) *by redesignating subsection (i), as added by*
19 *section 12104, as subsection (p); and*

20 (2) *by inserting after subsection (h) the follow-*
21 *ing:*

22 “(i) *COMPARABLE TREATMENT FOR DISQUALIFICA-*
23 *TION.*—

24 “(1) *IN GENERAL.*—*If a disqualification is im-*
25 *posed on a member of a household for a failure of the*

1 *member to perform an action required under a Fed-*
2 *eral, State, or local law relating to a means-tested*
3 *public assistance program, the State agency may im-*
4 *pose the same disqualification on the member of the*
5 *household under the food stamp program.*

6 *“(2) RULES AND PROCEDURES.—If a disquali-*
7 *fication is imposed under paragraph (1) for a failure*
8 *of an individual to perform an action required under*
9 *part A of title IV of the Social Security Act (42*
10 *U.S.C. 601 et seq.), the State agency may use the*
11 *rules and procedures that apply under part A of title*
12 *IV of the Act to impose the same disqualification*
13 *under the food stamp program.*

14 *“(3) APPLICATION AFTER DISQUALIFICATION PE-*
15 *RIOD.—A member of a household disqualified under*
16 *paragraph (1) may, after the disqualification period*
17 *has expired, apply for benefits under this Act and*
18 *shall be treated as a new applicant, except that a*
19 *prior disqualification under subsection (d) shall be*
20 *considered in determining eligibility.”.*

21 *(b) STATE PLAN PROVISIONS.—Section 11(e) of the*
22 *Act (7 U.S.C. 2020(e)) is amended—*

23 *(1) in paragraph (24), by striking “and” at the*
24 *end;*

1 (2) *in paragraph (25), by striking the period at*
2 *the end and inserting a semicolon; and*

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

4 “(26) *the guidelines the State agency uses in car-*
5 *rying out section 6(i); and”.*

6 (c) *CONFORMING AMENDMENT.—Section 6(d)(2)(A) of*
7 *the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking*
8 *“that is comparable to a requirement of paragraph (1)”.*

9 **SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE**
10 **FOOD STAMP BENEFITS.**

11 *Section 6 of the Food Stamp Act of 1977 (7 U.S.C.*
12 *2015), as amended by section 13028, is further amended*
13 *by inserting after subsection (i) the following:*

14 “(j) *DISQUALIFICATION FOR RECEIPT OF MULTIPLE*
15 *FOOD STAMP BENEFITS.—An individual shall be ineligible*
16 *to participate in the food stamp program as a member of*
17 *any household for a 10-year period if the individual is*
18 *found by a State agency to have made, or is convicted in*
19 *a Federal or State court of having made, a fraudulent state-*
20 *ment or representation with respect to the identity or place*
21 *of residence of the individual in order to receive multiple*
22 *benefits simultaneously under the food stamp program.”.*

1 **SEC. 13030. DISQUALIFICATION OF FLEEING FELONS.**

2 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
3 2015), as amended by section 13029, is further amended
4 by inserting after subsection (j) the following:

5 “(k) **DISQUALIFICATION OF FLEEING FELONS.**—No
6 member of a household who is otherwise eligible to partici-
7 pate in the food stamp program shall be eligible to partici-
8 pate in the program as a member of that or any other
9 household during any period during which the individual
10 is—

11 “(1) fleeing to avoid prosecution, or custody or
12 confinement after conviction, under the law of the
13 place from which the individual is fleeing, for a
14 crime, or attempt to commit a crime, that is a felony
15 under the law of the place from which the individual
16 is fleeing or that, in the case of New Jersey, is a high
17 misdemeanor under the law of New Jersey; or

18 “(2) violating a condition of probation or parole
19 imposed under a Federal or State law.”.

20 **SEC. 13031. COOPERATION WITH CHILD SUPPORT AGEN-**
21 **CIES.**

22 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
23 2015), as amended by section 13030, is further amended
24 by inserting after subsection (k) the following:

25 “(l) **CUSTODIAL PARENT’S COOPERATION WITH CHILD**
26 **SUPPORT AGENCIES.**—

1 “(1) *IN GENERAL.*—At the option of a State
2 agency, subject to paragraphs (2) and (3), no natural
3 or adoptive parent or other individual (collectively re-
4 ferred to in this subsection as ‘the individual’) who is
5 living with and exercising parental control over a
6 child under the age of 18 who has an absent parent
7 shall be eligible to participate in the food stamp pro-
8 gram unless the individual cooperates with the State
9 agency administering the program established under
10 part D of title IV of the Social Security Act (42
11 U.S.C. 651 *et seq.*)—

12 “(A) in establishing the paternity of the
13 child (if the child is born out of wedlock); and

14 “(B) in obtaining support for—

15 “(i) the child; or

16 “(ii) the individual and the child.

17 “(2) *GOOD CAUSE FOR NONCOOPERATION.*—
18 Paragraph (1) shall not apply to the individual if
19 good cause is found for refusing to cooperate, as deter-
20 mined by the State agency in accordance with stand-
21 ards prescribed by the Secretary in consultation with
22 the Secretary of Health and Human Services. The
23 standards shall take into consideration circumstances
24 under which cooperation may be against the best in-
25 terests of the child.

1 “(3) *FEES.*—Paragraph (1) shall not require the
2 *payment of a fee or other cost for services provided*
3 *under part D of title IV of the Social Security Act*
4 *(42 U.S.C. 651 et seq.).*

5 “(m) *NON-CUSTODIAL PARENT’S COOPERATION WITH*
6 *CHILD SUPPORT AGENCIES.*—

7 “(1) *IN GENERAL.*—At the option of a State
8 *agency, subject to paragraphs (2) and (3), a putative*
9 *or identified non-custodial parent of a child under the*
10 *age of 18 (referred to in this subsection as ‘the indi-*
11 *vidual’) shall not be eligible to participate in the food*
12 *stamp program if the individual refuses to cooperate*
13 *with the State agency administering the program es-*
14 *tablished under part D of title IV of the Social Secu-*
15 *urity Act (42 U.S.C. 651 et seq.)—*

16 “(A) *in establishing the paternity of the*
17 *child (if the child is born out of wedlock); and*

18 “(B) *in providing support for the child.*

19 “(2) *REFUSAL TO COOPERATE.*—

20 “(A) *GUIDELINES.*—The Secretary, in con-
21 *sultation with the Secretary of Health and*
22 *Human Services, shall develop guidelines on*
23 *what constitutes a refusal to cooperate under*
24 *paragraph (1).*

1 “(B) *PROCEDURES.*—*The State agency shall*
2 *develop procedures, using guidelines developed*
3 *under subparagraph (A), for determining wheth-*
4 *er an individual is refusing to cooperate under*
5 *paragraph (1).*”

6 “(3) *FEEES.*—*Paragraph (1) shall not require the*
7 *payment of a fee or other cost for services provided*
8 *under part D of title IV of the Social Security Act*
9 *(42 U.S.C. 651 et seq.).*”

10 “(4) *PRIVACY.*—*The State agency shall provide*
11 *safeguards to restrict the use of information collected*
12 *by a State agency administering the program estab-*
13 *lished under part D of title IV of the Social Security*
14 *Act (42 U.S.C. 651 et seq.) to purposes for which the*
15 *information is collected.*”

16 **SEC. 13032. DISQUALIFICATION RELATING TO CHILD SUP-**
17 **PORT ARREARS.**

18 *Section 6 of the Food Stamp Act of 1977 (7 U.S.C.*
19 *2015), as amended by section 13031, is further amended*
20 *by inserting after subsection (m) the following:*

21 “(n) *DISQUALIFICATION FOR CHILD SUPPORT AR-*
22 *REARS.*—

23 “(1) *IN GENERAL.*—*No individual shall be eligi-*
24 *ble to participate in the food stamp program as a*
25 *member of any household during any month that the*

1 *individual is delinquent in any payment due under*
2 *a court order for the support of a child of the individ-*
3 *ual.*

4 “(2) *EXCEPTIONS.*—*Paragraph (1) shall not*
5 *apply if—*

6 “(A) *a court is allowing the individual to*
7 *delay payment; or*

8 “(B) *the individual is complying with a*
9 *payment plan approved by a court or the State*
10 *agency designated under part D of title IV of the*
11 *Social Security Act (42 U.S.C. 651 et seq.) to*
12 *provide support for the child of the individual.”.*

13 ***SEC. 13033. WORK REQUIREMENT.***

14 (a) *IN GENERAL.*—*Section 6 of the Food Stamp Act*
15 *of 1977 (7 U.S.C. 2015), as amended by section 13032, is*
16 *further amended by inserting after subsection (n) the follow-*
17 *ing:*

18 “(o) *WORK REQUIREMENT.*—

19 “(1) *DEFINITION OF WORK PROGRAM.*—*In this*
20 *subsection, the term ‘work program’ means—*

21 “(A) *a program under the Job Training*
22 *Partnership Act (29 U.S.C. 1501 et seq.);*

23 “(B) *a program under section 236 of the*
24 *Trade Act of 1974 (19 U.S.C. 2296); or*

1 “(C) a program of employment or training
2 operated or supervised by a State or political
3 subdivision of a State that meets standards ap-
4 proved by the Governor of the State, including a
5 program under section 6(d)(4), other than a job
6 search program or a job search training pro-
7 gram.

8 “(2) *WORK REQUIREMENT.*—Subject to the other
9 provisions of this subsection, no individual shall be el-
10 igible to participate in the food stamp program as a
11 member of any household if, during the preceding 12-
12 month period, the individual received food stamp ben-
13 efits for not less than 4 months during which the in-
14 dividual did not—

15 “(A) work 20 hours or more per week, aver-
16 aged monthly; or

17 “(B) participate in and comply with the re-
18 quirements of a work program for 20 hours or
19 more per week, as determined by the State agen-
20 cy; or

21 “(C) participate in a program under sec-
22 tion 20 or a comparable program established by
23 a State or political subdivision of a State.

24 “(3) *EXCEPTION.*—Paragraph (2) shall not
25 apply to an individual if the individual is—

1 “(A) *under 18 or over 50 years of age;*

2 “(B) *medically certified as physically or*
3 *mentally unfit for employment;*

4 “(C) *a parent or other member of a house-*
5 *hold with responsibility for a dependent child;*

6 “(D) *otherwise exempt under section*
7 *6(d)(2); or*

8 “(E) *a pregnant woman.*

9 “(4) *WAIVER.—*

10 “(A) *IN GENERAL.—On the request of a*
11 *State agency, the Secretary may waive the ap-*
12 *plicability of paragraph (2) to any group of in-*
13 *dividuals in the State if the Secretary makes a*
14 *determination that the area in which the indi-*
15 *viduals reside—*

16 “(i) *has an unemployment rate of over*
17 *10 percent; or*

18 “(ii) *does not have a sufficient number*
19 *of jobs to provide employment for the indi-*
20 *viduals.*

21 “(B) *REPORT.—The Secretary shall report*
22 *the basis for a waiver under subparagraph (A)*
23 *to the Committee on Agriculture of the House of*
24 *Representatives and the Committee on Agri-*
25 *culture, Nutrition, and Forestry of the Senate.*

1 “(5) *SUBSEQUENT ELIGIBILITY.*—

2 “(A) *IN GENERAL.*—Paragraph (2) shall
3 *cease to apply to an individual if, during a 30-*
4 *day period, the individual—*

5 “(i) *works 80 or more hours;*

6 “(ii) *participates in and complies with*
7 *the requirements of a work program for 80*
8 *or more hours, as determined by a State*
9 *agency; or*

10 “(iii) *participates in a program under*
11 *section 20 or a comparable program estab-*
12 *lished by a State or political subdivision of*
13 *a State.*

14 “(B) *LIMITATION.*—*During the subsequent*
15 *12-month period, the individual shall be eligible*
16 *to participate in the food stamp program for not*
17 *more than 4 months during which the individual*
18 *does not—*

19 “(i) *work 20 hours or more per week,*
20 *averaged monthly;*

21 “(ii) *participate in and comply with*
22 *the requirements of a work program for 20*
23 *hours or more per week, as determined by*
24 *the State agency; or*

1 “(iii) participate in a program under
2 section 20 or a comparable program estab-
3 lished by a State or political subdivision of
4 a State.”.

5 (b) *TRANSITION PROVISION.*—Prior to 1 year after the
6 date of enactment of this Act, the term “preceding 12-month
7 period” in section 6(o) of the Food Stamp Act of 1977, as
8 amended by subsection (a), means the preceding period that
9 begins on the date of enactment of this Act.

10 ***SEC. 13034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER***
11 ***SYSTEMS.***

12 Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C.
13 2016(i)) is amended—

14 (1) by striking paragraph (1) and inserting the
15 following:

16 “(1) *ELECTRONIC BENEFIT TRANSFERS.*—

17 “(A) *IMPLEMENTATION.*—Each State agen-
18 cy shall implement an electronic benefit transfer
19 system in which household benefits determined
20 under section 8(a) or 24 are issued from and
21 stored in a central databank before October 1,
22 2002, unless the Secretary provides a waiver for
23 a State agency that faces unusual barriers to im-
24 plementing an electronic benefit transfer system.

1 “(B) *TIMELY IMPLEMENTATION.*—*State*
2 *agencies are encouraged to implement an elec-*
3 *tronic benefit transfer system under subpara-*
4 *graph (A) as soon as practicable.*

5 “(C) *STATE FLEXIBILITY.*—*Subject to para-*
6 *graph (2), a State agency may procure and im-*
7 *plement an electronic benefit transfer system*
8 *under the terms, conditions, and design that the*
9 *State agency considers appropriate.*

10 “(D) *OPERATION.*—*An electronic benefit*
11 *transfer system should take into account gen-*
12 *erally accepted standard operating rules based*
13 *on—*

14 “(i) *commercial electronic funds trans-*
15 *fer technology;*

16 “(ii) *the need to permit interstate op-*
17 *eration and law enforcement monitoring;*
18 *and*

19 “(iii) *the need to permit monitoring and*
20 *investigations by authorized law enforcement*
21 *agencies.”;*

22 (2) *in paragraph (2)—*

23 (A) *by striking “effective no later than*
24 *April 1, 1992,”;*

25 (B) *in subparagraph (A)—*

1 (i) by striking “, in any 1 year,”; and

2 (ii) by striking “on-line”;

3 (C) by striking subparagraph (D) and in-
4 serting the following:

5 “(D)(i) measures to maximize the security
6 of a system using the most recent technology
7 available that the State agency considers appro-
8 priate and cost effective and which may include
9 personal identification numbers, photographic
10 identification on electronic benefit transfer cards,
11 and other measures to protect against fraud and
12 abuse; and

13 “(ii) effective not later than 2 years after
14 the effective date of this clause, to the extent
15 practicable, measures that permit a system to
16 differentiate items of food that may be acquired
17 with an allotment from items of food that may
18 not be acquired with an allotment.”;

19 (D) in subparagraph (G), by striking “and”
20 at the end;

21 (E) in subparagraph (H), by striking the
22 period at the end and inserting “; and”; and

23 (F) by adding at the end the following:

24 “(I) procurement standards.”; and

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

1 “(7) *REPLACEMENT OF BENEFITS.*—Regulations
2 issued by the Secretary regarding the replacement of
3 benefits and liability for replacement of benefits under
4 an electronic benefit transfer system shall be similar
5 to the regulations in effect for a paper food stamp is-
6 suanance system.

7 “(8) *REPLACEMENT CARD FEE.*—A State agency
8 may collect a charge for replacement of an electronic
9 benefit transfer card by reducing the monthly allot-
10 ment of the household receiving the replacement card.

11 “(9) *OPTIONAL PHOTOGRAPHIC IDENTIFICA-*
12 *TION.*—

13 “(A) *IN GENERAL.*—A State agency may re-
14 quire that an electronic benefit card contain a
15 photograph of 1 or more members of a household.

16 “(B) *OTHER AUTHORIZED USERS.*—If a
17 State agency requires a photograph on an elec-
18 tronic benefit card under subparagraph (A), the
19 State agency shall establish procedures to ensure
20 that any other appropriate member of the house-
21 hold or any authorized representative of the
22 household may utilize the card.”.

1 **SEC. 13035. VALUE OF MINIMUM ALLOTMENT.**

2 *The proviso in section 8(a) of the Food Stamp Act of*
3 *1977 (7 U.S.C. 2017(a)) is amended by striking “, and shall*
4 *be adjusted” and all that follows through “\$5”.*

5 **SEC. 13036. BENEFITS ON RECERTIFICATION.**

6 *Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7*
7 *U.S.C. 2017(c)(2)(B)) is amended by striking “of more than*
8 *one month”.*

9 **SEC. 13037. OPTIONAL COMBINED ALLOTMENT FOR EXPE-**
10 **DITED HOUSEHOLDS.**

11 *Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C.*
12 *2017(c)) is amended by striking paragraph (3) and insert-*
13 *ing the following:*

14 *“(3) OPTIONAL COMBINED ALLOTMENT FOR EX-*
15 *PEDITED HOUSEHOLDS.—A State agency may pro-*
16 *vide to an eligible household applying after the 15th*
17 *day of a month, in lieu of the initial allotment of the*
18 *household and the regular allotment of the household*
19 *for the following month, an allotment that is equal to*
20 *the total amount of the initial allotment and the first*
21 *regular allotment. The allotment shall be provided in*
22 *accordance with section 11(e)(3) in the case of a*
23 *household that is not entitled to expedited service and*
24 *in accordance with paragraphs (3) and (9) of section*
25 *11(e) in the case of a household that is entitled to ex-*
26 *pedited service.”.*

1 **SEC. 13038. FAILURE TO COMPLY WITH OTHER MEANS-TEST-**
2 **ED PUBLIC ASSISTANCE PROGRAMS.**

3 *Section 8 of the Food Stamp Act of 1977 (7 U.S.C.*
4 *2017) is amended by striking subsection (d) and inserting*
5 *the following:*

6 *“(d) REDUCTION OF PUBLIC ASSISTANCE BENE-*
7 *FITS.—*

8 *“(1) IN GENERAL.—If the benefits of a household*
9 *are reduced under a Federal, State, or local law relat-*
10 *ing to a means-tested public assistance program for*
11 *the failure of a member of the household to perform*
12 *an action required under the law or program, for the*
13 *duration of the reduction—*

14 *“(A) the household may not receive an in-*
15 *creased allotment as the result of a decrease in*
16 *the income of the household to the extent that the*
17 *decrease is the result of the reduction; and*

18 *“(B) the State agency may reduce the allot-*
19 *ment of the household by not more than 25 per-*
20 *cent.*

21 *“(2) RULES AND PROCEDURES.—If the allotment*
22 *of a household is reduced under this subsection for a*
23 *failure to perform an action required under part A*
24 *of title IV of the Social Security Act (42 U.S.C. 601*
25 *et seq.), the State agency may use the rules and proce-*
26 *dures that apply under part A of title IV of the Act*

1 **SEC. 13040. CONDITION PRECEDENT FOR APPROVAL OF RE-**
2 **TAIL FOOD STORES AND WHOLESALE FOOD**
3 **CONCERNS.**

4 *Section 9(a)(1) of the Food Stamp Act of 1977 (7*
5 *U.S.C. 2018(a)(1)) is amended by adding at the end the*
6 *following: “No retail food store or wholesale food concern*
7 *of a type determined by the Secretary, based on factors that*
8 *include size, location, and type of items sold, shall be ap-*
9 *proved to be authorized or reauthorized for participation*
10 *in the food stamp program unless an authorized employee*
11 *of the Department of Agriculture, a designee of the Sec-*
12 *retary, or, if practicable, an official of the State or local*
13 *government designated by the Secretary has visited the store*
14 *or concern for the purpose of determining whether the store*
15 *or concern should be approved or reauthorized, as appro-*
16 *priate.”.*

17 **SEC. 13041. AUTHORITY TO ESTABLISH AUTHORIZATION PE-**
18 **RIODS.**

19 *Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C.*
20 *2018(a)) is amended by adding at the end the following:*
21 *“(3) AUTHORIZATION PERIODS.—The Secretary*
22 *shall establish specific time periods during which au-*
23 *thorization to accept and redeem coupons, or to re-*
24 *deem benefits through an electronic benefit transfer*
25 *system, shall be valid under the food stamp pro-*
26 *gram.”.*

1 **SEC. 13042. INFORMATION FOR VERIFYING ELIGIBILITY FOR**
2 **AUTHORIZATION.**

3 *Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C.*
4 *2018(c)) is amended—*

5 *(1) in the first sentence, by inserting “, which*
6 *may include relevant income and sales tax filing doc-*
7 *uments,” after “submit information”; and*

8 *(2) by inserting after the first sentence the fol-*
9 *lowing: “The regulations may require retail food*
10 *stores and wholesale food concerns to provide written*
11 *authorization for the Secretary to verify all relevant*
12 *tax filings with appropriate agencies and to obtain*
13 *corroborating documentation from other sources so*
14 *that the accuracy of information provided by the*
15 *stores and concerns may be verified.”.*

16 **SEC. 13043. WAITING PERIOD FOR STORES THAT FAIL TO**
17 **MEET AUTHORIZATION CRITERIA.**

18 *Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C.*
19 *2018(d)) is amended by adding at the end the following:*
20 *“A retail food store or wholesale food concern that is denied*
21 *approval to accept and redeem coupons because the store*
22 *or concern does not meet criteria for approval established*
23 *by the Secretary may not, for at least 6 months, submit*
24 *a new application to participate in the program. The Sec-*
25 *retary may establish a longer time period under the preced-*

1 *ing sentence, including permanent disqualification, that re-*
2 *flects the severity of the basis of the denial.”.*

3 **SEC. 13044. EXPEDITED COUPON SERVICE.**

4 *Section 11(e)(9) of the Food Stamp Act of 1977 (7*
5 *U.S.C. 2020(e)(9)) is amended—*

6 *(1) in subparagraph (A)—*

7 *(A) by striking “five days” and inserting*

8 *“7 days”; and*

9 *(B) by inserting “and” at the end;*

10 *(2) by striking subparagraphs (B) and (C);*

11 *(3) by redesignating subparagraph (D) as sub-*
12 *paragraph (B); and*

13 *(4) in subparagraph (B), as redesignated by*
14 *paragraph (3), by striking “, (B), or (C)”.*

15 **SEC. 13045. WITHDRAWING FAIR HEARING REQUESTS.**

16 *Section 11(e)(10) of the Food Stamp Act of 1977 (7*
17 *U.S.C. 2020(e)(10)) is amended by inserting before the*
18 *semicolon at the end a period and the following: “At the*
19 *option of a State, at any time prior to a fair hearing deter-*
20 *mination under this paragraph, a household may with-*
21 *draw, orally or in writing, a request by the household for*
22 *the fair hearing. If the withdrawal request is an oral re-*
23 *quest, the State agency shall provide a written notice to*
24 *the household confirming the withdrawal request and pro-*

1 *viding the household with an opportunity to request a hear-*
2 *ing”.*

3 **SEC. 13046. DISQUALIFICATION OF RETAILERS WHO INTEN-**
4 **TIONALLY SUBMIT FALSIFIED APPLICATIONS.**

5 *Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C.*
6 *2021(b)) is amended—*

7 *(1) in paragraph (2), by striking “and” at the*
8 *end;*

9 *(2) in paragraph (3), by striking the period at*
10 *the end and inserting “; and”; and*

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

12 *“(4) for a reasonable period of time to be deter-*
13 *mined by the Secretary, including permanent dis-*
14 *qualification, on the knowing submission of an appli-*
15 *cation for the approval or reauthorization to accept*
16 *and redeem coupons that contains false information*
17 *about a substantive matter that was a part of the ap-*
18 *plication.”.*

19 **SEC. 13047. DISQUALIFICATION OF RETAILERS WHO ARE**
20 **DISQUALIFIED UNDER THE WIC PROGRAM.**

21 *Section 12 of the Food Stamp Act of 1977 (7 U.S.C.*
22 *2021) is amended by adding at the end the following:*

23 *“(g) DISQUALIFICATION OF RETAILERS WHO ARE*
24 *DISQUALIFIED UNDER THE WIC PROGRAM.—*

1 “(1) *IN GENERAL.*—*The Secretary shall issue*
2 *regulations providing criteria for the disqualification*
3 *under this Act of an approved retail food store and*
4 *a wholesale food concern that is disqualified from ac-*
5 *cepting benefits under the special supplemental nutri-*
6 *tion program for women, infants, and children estab-*
7 *lished under section 17 of the Child Nutrition Act of*
8 *1966 (7 U.S.C. 1786).*

9 “(2) *TERMS.*—*A disqualification under para-*
10 *graph (1)—*

11 “(A) *shall be for the same length of time as*
12 *the disqualification from the program referred to*
13 *in paragraph (1);*

14 “(B) *may begin at a later date than the dis-*
15 *qualification from the program referred to in*
16 *paragraph (1); and*

17 “(C) *notwithstanding section 14, shall not*
18 *be subject to judicial or administrative review.”.*

19 **SEC. 13048. COLLECTION OF OVERISSUANCES.**

20 (a) *COLLECTION OF OVERISSUANCES.*—*Section 13 of*
21 *the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—*

22 (1) *by striking subsection (b) and inserting the*
23 *following:*

24 “(b) *COLLECTION OF OVERISSUANCES.*—

1 “(1) *IN GENERAL.*—*Except as otherwise provided*
2 *in this subsection, a State agency shall collect any*
3 *overissuance of coupons issued to a household by—*

4 “(A) *reducing the allotment of the house-*
5 *hold;*

6 “(B) *withholding amounts from unemploy-*
7 *ment compensation from a member of the house-*
8 *hold under subsection (c);*

9 “(C) *recovering from Federal pay or a Fed-*
10 *eral income tax refund under subsection (d); or*

11 “(D) *any other means.*

12 “(2) *COST EFFECTIVENESS.*—*Paragraph (1)*
13 *shall not apply if the State agency demonstrates to*
14 *the satisfaction of the Secretary that all of the means*
15 *referred to in paragraph (1) are not cost effective.*

16 “(3) *MAXIMUM REDUCTION ABSENT FRAUD.*—*If*
17 *a household received an overissuance of coupons with-*
18 *out any member of the household being found eligible*
19 *to participate in the program under section 6(b)(1)*
20 *and a State agency elects to reduce the allotment of*
21 *the household under paragraph (1)(A), the State*
22 *agency shall not reduce the monthly allotment of the*
23 *household under paragraph (1)(A) by an amount in*
24 *excess of the greater of—*

1 “(A) 10 percent of the monthly allotment of
2 the household; or

3 “(B) \$10.

4 “(4) PROCEDURES.—A State agency shall collect
5 an overissuance of coupons issued to a household
6 under paragraph (1) in accordance with the require-
7 ments established by the State agency for providing
8 notice, electing a means of payment, and establishing
9 a time schedule for payment.”; and

10 (2) in subsection (d)—

11 (A) by striking “as determined under sub-
12 section (b) and except for claims arising from an
13 error of the State agency,” and inserting “, as
14 determined under subsection (b)(1),”; and

15 (B) by inserting before the period at the end
16 the following: “or a Federal income tax refund as
17 authorized by section 3720A of title 31, United
18 States Code”.

19 (b) CONFORMING AMENDMENTS.—Section 11(e)(8) of
20 the Act (7 U.S.C. 2020(e)(8)) is amended—

21 (1) by striking “and excluding claims” and all
22 that follows through “such section”; and

23 (2) by inserting before the semicolon at the end
24 the following: “or a Federal income tax refund as au-

1 *judicial review, the Secretary shall not be liable for*
2 *the value of any sales lost during the disqualification*
3 *period.”.*

4 **SEC. 13050. LIMITATION OF FEDERAL MATCH.**

5 *Section 16(a)(4) of the Food Stamp Act of 1977 (7*
6 *U.S.C. 2025(a)(4)) is amended by inserting after the*
7 *comma at the end the following: “but not including recruit-*
8 *ment activities,”.*

9 **SEC. 13051. WORK SUPPLEMENTATION OR SUPPORT PRO-**
10 **GRAM.**

11 *Section 16 of the Food Stamp Act of 1977 (7 U.S.C.*
12 *2025) is amended by adding at the end the following:*

13 “(c) *WORK SUPPLEMENTATION OR SUPPORT PRO-*
14 *GRAM.—*

15 “(1) *DEFINITION OF WORK SUPPLEMENTATION*
16 *OR SUPPORT PROGRAM.—In this subsection, the term*
17 *‘work supplementation or support program’ means a*
18 *program under which, as determined by the Sec-*
19 *retary, public assistance (including any benefits pro-*
20 *vided under a program established by the State and*
21 *the food stamp program) is provided to an employer*
22 *to be used for hiring and employing a public assist-*
23 *ance recipient who was not employed by the employer*
24 *at the time the public assistance recipient entered the*
25 *program.*

1 “(2) *PROGRAM.*—A State agency may elect to
2 use an amount equal to the allotment that would oth-
3 erwise be issued to a household under the food stamp
4 program, but for the operation of this subsection, for
5 the purpose of subsidizing or supporting a job under
6 a work supplementation or support program estab-
7 lished by the State.

8 “(3) *PROCEDURE.*—If a State agency makes an
9 election under paragraph (2) and identifies each
10 household that participates in the food stamp pro-
11 gram that contains an individual who is participat-
12 ing in the work supplementation or support pro-
13 gram—

14 “(A) the Secretary shall pay to the State
15 agency an amount equal to the value of the allot-
16 ment that the household would be eligible to re-
17 ceive but for the operation of this subsection;

18 “(B) the State agency shall expend the
19 amount received under subparagraph (A) in ac-
20 cordance with the work supplementation or sup-
21 port program in lieu of providing the allotment
22 that the household would receive but for the oper-
23 ation of this subsection;

24 “(C) for purposes of—

1 “(i) sections 5 and 8(a), the amount
2 received under this subsection shall be ex-
3 cluded from household income and resources;
4 and

5 “(ii) section 8(b), the amount received
6 under this subsection shall be considered to
7 be the value of an allotment provided to the
8 household; and

9 “(D) the household shall not receive an al-
10 lotment from the State agency for the period
11 during which the member continues to partici-
12 pate in the work supplementation or support
13 program.

14 “(4) OTHER WORK REQUIREMENTS.—No indi-
15 vidual shall be excused, by reason of the fact that a
16 State has a work supplementation or support pro-
17 gram, from any work requirement under section 6(d),
18 except during the periods in which the individual is
19 employed under the work supplementation or support
20 program.

21 “(5) LENGTH OF PARTICIPATION.—A State agen-
22 cy shall provide a description of how the public as-
23 sistance recipients in the program shall, within a spe-
24 cific period of time, be moved from supplemented or

1 supported employment to employment that is not sup-
2 plemented or supported.

3 “(6) *DISPLACEMENT.*—A work supplementation
4 or support program shall not displace the employ-
5 ment of individuals who are not supplemented or sup-
6 ported.”.

7 **SEC. 13052. AUTHORIZATION OF PILOT PROJECTS.**

8 The last sentence of section 17(b)(1)(A) of the Food
9 Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended
10 by striking “1995” and inserting “2002”.

11 **SEC. 13053. EMPLOYMENT INITIATIVES PROGRAM.**

12 Section 17 of the Food Stamp Act of 1977 (7 U.S.C.
13 2026) is amended by striking subsection (d) and inserting
14 the following:

15 “(d) *EMPLOYMENT INITIATIVES PROGRAM.*—

16 “(1) *ELECTION TO PARTICIPATE.*—

17 “(A) *IN GENERAL.*—Subject to the other
18 provisions of this subsection, a State may elect
19 to carry out an employment initiatives program
20 under this subsection.

21 “(B) *REQUIREMENT.*—A State shall be eli-
22 gible to carry out an employment initiatives pro-
23 gram under this subsection only if not less than
24 50 percent of the households that received food
25 stamp benefits during the summer of 1993 also

1 *received benefits under a State program funded*
2 *under part A of title IV of the Social Security*
3 *Act (42 U.S.C. 601 et seq.) during the summer*
4 *of 1993.*

5 “(2) *PROCEDURE.*—

6 “(A) *IN GENERAL.*—*A State that has elected*
7 *to carry out an employment initiatives program*
8 *under paragraph (1) may use amounts equal to*
9 *the food stamp allotments that would otherwise*
10 *be issued to a household under the food stamp*
11 *program, but for the operation of this subsection,*
12 *to provide cash benefits in lieu of the food stamp*
13 *allotments to the household if the household is el-*
14 *igible under paragraph (3).*

15 “(B) *PAYMENT.*—*The Secretary shall pay to*
16 *each State that has elected to carry out an em-*
17 *ployment initiatives program under paragraph*
18 *(1) an amount equal to the value of the allot-*
19 *ment that each household would be eligible to re-*
20 *ceive under this Act but for the operation of this*
21 *subsection.*

22 “(C) *OTHER PROVISIONS.*—*For purposes of*
23 *the food stamp program (other than this sub-*
24 *section)—*

1 “(i) cash assistance under this sub-
2 section shall be considered to be an allot-
3 ment; and

4 “(ii) each household receiving cash ben-
5 efits under this subsection shall not receive
6 any other food stamp benefit for the period
7 for which the cash assistance is provided.

8 “(D) *ADDITIONAL PAYMENTS.*—Each State
9 that has elected to carry out an employment ini-
10 tiatives program under paragraph (1) shall—

11 “(i) increase the cash benefits provided
12 to each household under this subsection to
13 compensate for any State or local sales tax
14 that may be collected on purchases of food
15 by any household receiving cash benefits
16 under this subsection, unless the Secretary
17 determines on the basis of information pro-
18 vided by the State that the increase is un-
19 necessary on the basis of the limited nature
20 of the items subject to the State or local
21 sales tax; and

22 “(ii) pay the cost of any increase in
23 cash benefits required by clause (i).

1 “(3) *ELIGIBILITY.*—A household shall be eligible
2 to receive cash benefits under paragraph (2) if an
3 adult member of the household—

4 “(A) has worked in unsubsidized employ-
5 ment for not less than the preceding 90 days;

6 “(B) has earned not less than \$350 per
7 month from the employment referred to in sub-
8 paragraph (A) for not less than the preceding 90
9 days;

10 “(C)(i) is receiving benefits under a State
11 program funded under part A of title IV of the
12 Social Security Act (42 U.S.C. 601 et seq.); or

13 “(ii) was receiving benefits under a State
14 program funded under part A of title IV of the
15 Social Security Act (42 U.S.C. 601 et seq.) at the
16 time the member first received cash benefits
17 under this subsection and is no longer eligible for
18 the State program because of earned income;

19 “(D) is continuing to earn not less than
20 \$350 per month from the employment referred to
21 in subparagraph (A); and

22 “(E) elects to receive cash benefits in lieu of
23 food stamp benefits under this subsection.

24 “(4) *EVALUATION.*—A State that operates a pro-
25 gram under this subsection for 2 years shall provide

1 to the Secretary a written evaluation of the impact of
2 cash assistance under this subsection. The State agen-
3 cy, with the concurrence of the Secretary, shall deter-
4 mine the content of the evaluation.”.

5 **SEC. 13054. REAUTHORIZATION OF PUERTO RICO NUTRI-**
6 **TION ASSISTANCE PROGRAM.**

7 The first sentence of section 19(a)(1)(A) of the Food
8 Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended
9 by striking “\$974,000,000” and all that follows through
10 “fiscal year 1995” and inserting “\$1,143,000,000 for each
11 of fiscal years 1995 and 1996, \$1,182,000,000 for fiscal year
12 1997, \$1,223,000,000 for fiscal year 1998, \$1,266,000,000
13 for fiscal year 1999, \$1,310,000,000 for fiscal year 2000,
14 \$1,357,000,000 for fiscal year 2001, and \$1,404,000,000 for
15 fiscal year 2002”.

16 **SEC. 13055. SIMPLIFIED FOOD STAMP PROGRAM.**

17 (a) *IN GENERAL.*—The Act (7 U.S.C. 2011 *et seq.*) is
18 amended by adding at the end the following:

19 **“SEC. 24. SIMPLIFIED FOOD STAMP PROGRAM.**

20 “(a) *DEFINITION OF FEDERAL COSTS.*—In this sec-
21 tion, the term ‘Federal costs’ does not include any Federal
22 costs incurred under section 17.

23 “(b) *ELECTION.*—Subject to subsection (d), a State
24 agency may elect to carry out a Simplified Food Stamp

1 *Program (referred to in this section as a ‘Program’) in ac-*
2 *cordance with this section.*

3 “(c) *OPERATION OF PROGRAM.—If a State agency*
4 *elects to carry out a Program, within the State or a politi-*
5 *cal subdivision of the State—*

6 “(1) *a household in which all members receive*
7 *assistance under a State program funded under part*
8 *A of title IV of the Social Security Act (42 U.S.C.*
9 *601 et seq.) shall automatically be eligible to partici-*
10 *pate in the Program; and*

11 “(2) *subject to subsection (f), benefits under the*
12 *Program shall be determined under rules and proce-*
13 *dures established by the State under—*

14 “(A) *a State program funded under part A*
15 *of title IV of the Social Security Act (42 U.S.C.*
16 *601 et seq.);*

17 “(B) *the food stamp program (other than*
18 *section 25); or*

19 “(C) *a combination of a State program*
20 *funded under part A of title IV of the Social Se-*
21 *curity Act (42 U.S.C. 601 et seq.) and the food*
22 *stamp program (other than section 25).*

23 “(d) *APPROVAL OF PROGRAM.—*

24 “(1) *STATE PLAN.—A State agency may not op-*
25 *erate a Program unless the Secretary approves a*

1 *State plan for the operation of the Program under*
2 *paragraph (2).*

3 “(2) *APPROVAL OF PLAN.*—*The Secretary shall*
4 *approve any State plan to carry out a Program if the*
5 *Secretary determines that the plan—*

6 “(A) *complies with this section; and*

7 “(B) *contains sufficient documentation that*
8 *the plan will not increase Federal costs for any*
9 *fiscal year.*

10 “(e) *INCREASED FEDERAL COSTS.*—

11 “(1) *DETERMINATION.*—*During each fiscal year*
12 *and not later than 90 days after the end of each fiscal*
13 *year, the Secretary shall determine whether a Pro-*
14 *gram being carried out by a State agency is increas-*
15 *ing Federal costs under this Act above the Federal*
16 *costs incurred under the food stamp program in oper-*
17 *ation in the State or political subdivision of the State*
18 *for the fiscal year prior to the implementation of the*
19 *Program, adjusted for any changes in—*

20 “(A) *participation;*

21 “(B) *the income of participants in the food*
22 *stamp program that is not attributable to public*
23 *assistance; and*

24 “(C) *the thrifty food plan under section*
25 *3(o).*

1 “(2) *NOTIFICATION.*—*If the Secretary determines*
2 *that the Program has increased Federal costs under*
3 *this Act for any fiscal year or any portion of any fis-*
4 *cal year, the Secretary shall notify the State agency*
5 *not later than 30 days after the Secretary makes the*
6 *determination under paragraph (1).*

7 “(3) *ENFORCEMENT.*—

8 “(A) *CORRECTIVE ACTION.*—*Not later than*
9 *90 days after the date of a notification under*
10 *paragraph (2), the State agency shall submit a*
11 *plan for approval by the Secretary for prompt*
12 *corrective action that is designed to prevent the*
13 *Program from increasing Federal costs under*
14 *this Act.*

15 “(B) *TERMINATION.*—*If the State agency*
16 *does not submit a plan under subparagraph (A)*
17 *or carry out a plan approved by the Secretary,*
18 *the Secretary shall terminate the approval of the*
19 *State agency to operate a Program and the State*
20 *agency shall be ineligible to operate a future Pro-*
21 *gram.*

22 “(f) *RULES AND PROCEDURES.*—

23 “(1) *IN GENERAL.*—*In operating a Program, a*
24 *State or political subdivision of a State may follow*
25 *the rules and procedures established by the State or*

1 *political subdivision under a State program funded*
2 *under part A of title IV of the Social Security Act (42*
3 *U.S.C. 601 et seq.) or under the food stamp program.*

4 “(2) *STANDARDIZED DEDUCTIONS.—In operat-*
5 *ing a Program, a State may standardize the deduc-*
6 *tions provided under section 5(e). In developing the*
7 *standardized deduction, the State shall consider the*
8 *work expenses, dependent care costs, and shelter costs*
9 *of participating households.*

10 “(3) *REQUIREMENTS.—In operating a Program,*
11 *a State or political subdivision shall comply with the*
12 *requirements of—*

13 “(A) *subsections (a) through (g) of section 7;*

14 “(B) *section 8(a) (except that the income of*
15 *a household may be determined under a State*
16 *program funded under part A of title IV of the*
17 *Social Security Act (42 U.S.C. 601 et seq.);*

18 “(C) *subsection (b) and (d) of section 8;*

19 “(D) *subsections (a), (c), (d), and (n) of sec-*
20 *tion 11;*

21 “(E) *paragraphs (8), (12), (17), (19), (21),*
22 *(26), and (27) of section 11(e);*

23 “(F) *section 11(e)(10) (or a comparable re-*
24 *quirement established by the State under a State*

1 program funded under part A of title IV of the
2 Social Security Act (42 U.S.C. 601 et seq.); and
3 “(G) section 16.

4 “(4) *LIMITATION ON ELIGIBILITY.*—Notwith-
5 standing any other provision of this section, a house-
6 hold may not receive benefits under this section as a
7 result of the eligibility of the household under a State
8 program funded under part A of title IV of the Social
9 Security Act (42 U.S.C. 601 et seq.), unless the Sec-
10 retary determines that any household with income
11 above 130 percent of the poverty guidelines is not eli-
12 gible for the program.”.

13 (b) *STATE PLAN PROVISIONS.*—Section 11(e) of the
14 Act (7 U.S.C. 2020(e)), as amended by sections 13028(b),
15 is further amended by adding at the end the following:

16 “(27) if a State agency elects to carry out a
17 Simplified Food Stamp Program under section 24,
18 the plans of the State agency for operating the pro-
19 gram, including—

20 “(A) the rules and procedures to be followed
21 by the State to determine food stamp benefits;

22 “(B) how the State will address the needs of
23 households that experience high shelter costs in
24 relation to the incomes of the households; and

1 “(C) a description of the method by which
2 the State will carry out a quality control system
3 under section 16(c).”.

4 (c) *CONFORMING AMENDMENTS.*—

5 (1) Section 8 of the Act (7 U.S.C. 2017), as
6 amended by section 13039, is further amended—

7 (A) by striking subsection (e); and

8 (B) by redesignating subsection (f) as sub-
9 section (e).

10 (2) Section 17 of the Act (7 U.S.C. 2026) is
11 amended—

12 (A) by striking subsection (i); and

13 (B) by redesignating subsections (j) through
14 (l) as subsections (i) through (k), respectively.

15 **SEC. 13056. STATE FOOD ASSISTANCE BLOCK GRANT.**

16 (a) *IN GENERAL.*—The Food Stamp Act of 1977 (7
17 U.S.C. 2011 et seq.), as amended by section 13055, is fur-
18 ther amended by adding at the end the following:

19 **“SEC. 25. STATE FOOD ASSISTANCE BLOCK GRANT.**

20 “(a) *DEFINITIONS.*—In this section:

21 “(1) *FOOD ASSISTANCE.*—The term ‘food assist-
22 ance’ means assistance that may be used only to ob-
23 tain food, as defined in section 3(g).

1 “(2) *STATE*.—The term ‘State’ means each of the
2 50 States, the District of Columbia, Guam, and the
3 Virgin Islands of the United States.

4 “(b) *ESTABLISHMENT*.—The Secretary shall establish
5 a program to make grants to States in accordance with this
6 section to provide—

7 “(1) food assistance to needy individuals and
8 families residing in the State; and

9 “(2) funds for administrative costs incurred in
10 providing the assistance.

11 “(c) *ELECTION*.—

12 “(1) *IN GENERAL*.—A State may annually elect
13 to participate in the program established under sub-
14 section (b) if the State—

15 “(A) has fully implemented an electronic
16 benefit transfer system that operates in the entire
17 State;

18 “(B) has a payment error rate under sec-
19 tion 16(c) that is not more than 6 percent as an-
20 nounced most recently by the Secretary; or

21 “(C) has a payment error rate in excess of
22 6 percent and agrees to contribute non-Federal
23 funds for the fiscal year of the grant, for benefits
24 and administration of the State’s food assistance

1 program, the amount determined under para-
2 graph (2).

3 “(2) STATE MANDATORY CONTRIBUTIONS.—

4 “(A) IN GENERAL.—In the case of a State
5 that elects to participate in the program under
6 paragraph (1)(C), the State shall agree to con-
7 tribute, for a fiscal year, an amount equal to—

8 “(A)(i) the benefits issued in the State; mul-
9 tiplied by

10 “(ii) the payment error rate of the State;
11 minus

12 “(B)(i) the benefits issued in the State; mul-
13 tiplied by

14 “(i) 6 percent.

15 “(B) DETERMINATION.—Notwithstanding
16 sections 13 and 14, the calculation of the con-
17 tribution shall be based solely on the determina-
18 tion of the Secretary of the payment error rate.

19 “(C) DATA.—For purposes of implementing
20 subparagraph (A) for a fiscal year, the Secretary
21 shall use the data for the most recent fiscal year
22 available.

23 “(3) ELECTION LIMITATION.—

24 “(A) RE-ENTERING FOOD STAMP PRO-
25 GRAM.—A State that elects to participate in the

1 *program under paragraph (1) may in a subse-*
2 *quent year decline to elect to participate in the*
3 *program and instead participate in the food*
4 *stamp program in accordance with the other sec-*
5 *tions of this Act.*

6 “(B) *LIMITATION.*—*Subsequent to re-enter-*
7 *ing the food stamp program under subparagraph*
8 *(A), the State shall only be eligible to participate*
9 *in the food stamp program in accordance with*
10 *the other sections of this Act and shall not be eli-*
11 *gible to elect to participate in the program estab-*
12 *lished under subsection (b).*

13 “(4) *PROGRAM EXCLUSIVE.*—

14 “(A) *IN GENERAL.*—*A State that is partici-*
15 *pating in the program established under sub-*
16 *section (b) shall not be subject to, or receive any*
17 *benefit under, this Act except as provided in this*
18 *section.*

19 “(B) *CONTRACT WITH FEDERAL GOVERN-*
20 *MENT.*—*Nothing in this section shall prohibit a*
21 *State from contracting with the Federal Govern-*
22 *ment for the provision of services or materials*
23 *necessary to carry out a program under this sec-*
24 *tion.*

1 “(d) *LEAD AGENCY.*—A State desiring to receive a
2 grant under this section shall designate, in an application
3 submitted to the Secretary under subsection (e)(1), an ap-
4 propriate State agency responsible for the administration
5 of the program under this section as the lead agency.

6 “(e) *APPLICATION AND PLAN.*—

7 “(1) *APPLICATION.*—To be eligible to receive as-
8 sistance under this section, a State shall prepare and
9 submit to the Secretary an application at such time,
10 in such manner, and containing such information as
11 the Secretary shall by regulation require, including—

12 “(A) an assurance that the State will com-
13 ply with the requirements of this section;

14 “(B) a State plan that meets the require-
15 ments of paragraph (3); and

16 “(C) an assurance that the State will com-
17 ply with the requirements of the State plan
18 under paragraph (3).

19 “(2) *ANNUAL PLAN.*—The State plan contained
20 in the application under paragraph (1) shall be sub-
21 mitted for approval annually.

22 “(3) *REQUIREMENTS OF PLAN.*—

23 “(A) *LEAD AGENCY.*—The State plan shall
24 identify the lead agency.

1 “(B) *USE OF BLOCK GRANT FUNDS.*—*The*
2 *State plan shall provide that the State shall use*
3 *the amounts provided to the State for each fiscal*
4 *year under this section—*

5 “(i) *to provide food assistance to needy*
6 *individuals and families residing in the*
7 *State, other than residents of institutions*
8 *who are ineligible for food stamps under*
9 *section 3(i); and*

10 “(ii) *to pay administrative costs in-*
11 *curring in providing the assistance.*

12 “(C) *GROUPS SERVED.*—*The State plan*
13 *shall describe how and to what extent the pro-*
14 *gram will serve specific groups of individuals*
15 *and families and how the treatment will differ*
16 *from treatment under the food stamp program*
17 *under the other sections of this Act of the indi-*
18 *viduals and families, including—*

19 “(i) *elderly individuals and families;*

20 “(ii) *migrants or seasonal farm-*
21 *workers;*

22 “(iii) *homeless individuals and fami-*
23 *lies;*

24 “(iv) *individuals and families who live*
25 *in institutions eligible under section 3(i);*

1 “(v) individuals and families with
2 earnings; and

3 “(vi) members of Indian tribes or trib-
4 al organizations.

5 “(D) ASSISTANCE FOR ENTIRE STATE.—The
6 State plan shall provide that benefits under this
7 section shall be available throughout the entire
8 State.

9 “(E) NOTICE AND HEARINGS.—The State
10 plan shall provide that an individual or family
11 who applies for, or receives, assistance under this
12 section shall be provided with notice of, and an
13 opportunity for a hearing on, any action under
14 this section that adversely affects the individual
15 or family.

16 “(F) ASSESSMENT OF NEEDS.—The State
17 plan shall assess the food and nutrition needs of
18 needy persons residing in the State.

19 “(G) ELIGIBILITY STANDARDS.—The State
20 plan shall describe the income, resource, and
21 other eligibility standards that are established
22 for the receipt of assistance under this section.

23 “(H) RECEIVING BENEFITS IN MORE THAN
24 1 JURISDICTION.—The State plan shall establish
25 a system for the exchange of information with

1 *other States to verify the identity and receipt of*
2 *benefits by recipients.*

3 “(I) *PRIVACY.*—*The State plan shall pro-*
4 *vide for safeguarding and restricting the use and*
5 *disclosure of information about any individual*
6 *or family receiving assistance under this section.*

7 “(J) *OTHER INFORMATION.*—*The State plan*
8 *shall contain such other information as may be*
9 *required by the Secretary.*

10 “(4) *APPROVAL OF APPLICATION AND PLAN.*—
11 *The Secretary shall approve an application and State*
12 *plan that satisfies the requirements of this section.*

13 “(f) *NO INDIVIDUAL OR FAMILY ENTITLEMENT TO AS-*
14 *SISTANCE.*—*Nothing in this section—*

15 “(1) *entitles any individual or family to assist-*
16 *ance under this section; or*

17 “(2) *limits the right of a State to impose addi-*
18 *tional limitations or conditions on assistance under*
19 *this section.*

20 “(g) *BENEFITS FOR ALIENS.*—

21 “(1) *ELIGIBILITY.*—*No individual who is an*
22 *alien shall be eligible to receive benefits under a State*
23 *plan approved under subsection (e)(4) if the individ-*
24 *ual is not eligible to participate in the food stamp*
25 *program due to the alien status of the individual.*

1 “(2) *INCOME.*—*The State plan shall provide that*
2 *the income of an alien shall be determined in accord-*
3 *ance with section 5(i).*

4 “(h) *EMPLOYMENT AND TRAINING.*—

5 “(1) *WORK REQUIREMENTS.*—*No individual or*
6 *household shall be eligible to receive benefits under a*
7 *State plan funded under this section if the individual*
8 *or household is not eligible to participate in the food*
9 *stamp program under subsection (d) or (o) of section*
10 *6.*

11 “(2) *WORK PROGRAMS.*—*Each State shall imple-*
12 *ment an employment and training program in ac-*
13 *cordance with the terms and conditions of section*
14 *6(d)(4) for individuals under the program and shall*
15 *be eligible to receive funding under section 16(h).*

16 “(i) *ENFORCEMENT.*—

17 “(1) *REVIEW OF COMPLIANCE WITH STATE*
18 *PLAN.*—*The Secretary shall review and monitor State*
19 *compliance with this section and the State plan ap-*
20 *proved under subsection (e)(4).*

21 “(2) *NONCOMPLIANCE.*—

22 “(A) *IN GENERAL.*—*If the Secretary, after*
23 *reasonable notice to a State and opportunity for*
24 *a hearing, finds that—*

1 “(i) there has been a failure by the
2 State to comply substantially with any pro-
3 vision or requirement set forth in the State
4 plan approved under subsection (e)(4); or

5 “(ii) in the operation of any program
6 or activity for which assistance is provided
7 under this section, there is a failure by the
8 State to comply substantially with any pro-
9 vision of this section;

10 the Secretary shall notify the State of the finding
11 and that no further grants will be made to the
12 State under this section (or, in the case of non-
13 compliance in the operation of a program or ac-
14 tivity, that no further grants to the State will be
15 made with respect to the program or activity)
16 until the Secretary is satisfied that there is no
17 longer any failure to comply or that the non-
18 compliance will be promptly corrected.

19 “(B) OTHER PENALTIES.—In the case of a
20 finding of noncompliance made pursuant to sub-
21 paragraph (A), the Secretary may, in addition
22 to, or in lieu of, imposing the penalties described
23 in subparagraph (A), impose other appropriate
24 penalties, including recoupment of money im-
25 properly expended for purposes prohibited or not

1 *authorized by this section and disqualification*
2 *from the receipt of financial assistance under*
3 *this section.*

4 “(C) *NOTICE.*—*The notice required under*
5 *subparagraph (A) shall include a specific identi-*
6 *fication of any additional penalty being imposed*
7 *under subparagraph (B).*

8 “(3) *ISSUANCE OF REGULATIONS.*—*The Sec-*
9 *retary shall establish by regulation procedures for—*

10 “(A) *receiving, processing, and determining*
11 *the validity of complaints made to the Secretary*
12 *concerning any failure of a State to comply with*
13 *the State plan or any requirement of this sec-*
14 *tion; and*

15 “(B) *imposing penalties under this section.*

16 “(j) *GRANT.*—

17 “(1) *IN GENERAL.*—*For each fiscal year, the Sec-*
18 *retary shall pay to a State that has an application*
19 *approved by the Secretary under subsection (e)(4) an*
20 *amount that is equal to the grant of the State under*
21 *subsection (m) for the fiscal year, adjusted for any re-*
22 *duction required under subsection (m)(2).*

23 “(2) *METHOD OF GRANT.*—*The Secretary shall*
24 *make a grant to a State for a fiscal year under this*
25 *section by issuing 1 or more letters of credit for the*

1 *fiscal year, with necessary adjustments on account of*
2 *overpayments or underpayments, as determined by*
3 *the Secretary.*

4 “(3) *SPENDING OF GRANTS BY STATE.*—

5 “(A) *IN GENERAL.*—*Except as provided in*
6 *subparagraph (B), a grant to a State determined*
7 *under subsection (m)(1) for a fiscal year may be*
8 *expended by the State only in the fiscal year.*

9 “(B) *CARRYOVER.*—*The State may reserve*
10 *up to 10 percent of a grant determined under*
11 *subsection (m)(1) for a fiscal year to provide as-*
12 *sistance under this section in subsequent fiscal*
13 *years, except that the reserved funds may not ex-*
14 *ceed 30 percent of the total grant received under*
15 *this section for a fiscal year.*

16 “(4) *FOOD ASSISTANCE AND ADMINISTRATIVE*
17 *EXPENDITURES.*—*In each fiscal year, not more than*
18 *6 percent of the Federal and State funds required to*
19 *be expended by a State under this section shall be*
20 *used for administrative expenses.*

21 “(5) *PROVISION OF FOOD ASSISTANCE.*—*A State*
22 *may provide food assistance under this section in any*
23 *manner determined appropriate by the State, such as*
24 *electronic benefit transfer limited to food purchases,*

1 *coupons limited to food purchases, or direct provision*
2 *of commodities.*

3 “(k) *QUALITY CONTROL.*—*Each State participating in*
4 *the program established under this section shall maintain*
5 *a system in accordance with, and shall be subject to section*
6 *16(c), including sanctions and eligibility for incentive pay-*
7 *ment under section 16(c).*

8 “(l) *NONDISCRIMINATION.*—

9 “(1) *IN GENERAL.*—*The Secretary shall not pro-*
10 *vide financial assistance for any program, project, or*
11 *activity under this section if any person with respon-*
12 *sibilities for the operation of the program, project, or*
13 *activity discriminates with respect to the program,*
14 *project, or activity because of race, religion, color, na-*
15 *tional origin, sex, or disability.*

16 “(2) *ENFORCEMENT.*—*The powers, remedies, and*
17 *procedures set forth in title VI of the Civil Rights Act*
18 *of 1964 (42 U.S.C. 2000d et seq.) may be used by the*
19 *Secretary to enforce paragraph (1).*

20 “(m) *GRANT CALCULATION.*—

21 “(1) *STATE GRANT.*—

22 “(A) *IN GENERAL.*—*Except as provided in*
23 *subparagraph (B), from the amounts made*
24 *available under section 18 for each fiscal year,*
25 *the Secretary shall provide a grant to each State*

1 *participating in the program established under*
2 *this section an amount that is equal to the sum*
3 *of—*

4 “(i) *the greater of, as determined by*
5 *the Secretary—*

6 “(I) *the total dollar value of all*
7 *benefits issued under the food stamp*
8 *program established under this Act by*
9 *the State during fiscal year 1994; or*

10 “(II) *the average per fiscal year of*
11 *the total dollar value of all benefits is-*
12 *sued under the food stamp program by*
13 *the State during each of fiscal years*
14 *1992 through 1994; and*

15 “(ii) *the greater of, as determined by*
16 *the Secretary—*

17 “(I) *the total amount received by*
18 *the State for administrative costs*
19 *under section 16 for fiscal year 1994;*
20 *or*

21 “(II) *the average per fiscal year of*
22 *the total amount received by the State*
23 *for administrative costs under section*
24 *16 for each of fiscal years 1992 through*
25 *1994.*

1 “(B) *INSUFFICIENT FUNDS.*—If the Sec-
2 retary finds that the total amount of grants to
3 which States would otherwise be entitled for a
4 fiscal year under subparagraph (A) will exceed
5 the amount of funds that will be made available
6 to provide the grants for the fiscal year, the Sec-
7 retary shall reduce the grants made to States
8 under this subsection, on a pro rata basis, to the
9 extent necessary.

10 “(2) *REDUCTION.*—The Secretary shall reduce
11 the grant of a State by the amount a State has agreed
12 to contribute under subsection (c)(1)(C).”.

13 (b) *EMPLOYMENT AND TRAINING FUNDING.*—Section
14 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section
15 13027(d)(2), is further amended by adding at the end the
16 following:

17 “(6) *BLOCK GRANT STATES.*—Each State elect-
18 ing to operate a program under section 25 shall—

19 “(A) receive the greater of—

20 “(i) the total dollar value of the funds
21 received under paragraph (1) by the State
22 during fiscal year 1994; or

23 “(ii) the average per fiscal year of the
24 total dollar value of all funds received under

1 *paragraph (1) by the State during each of*
2 *fiscal years 1992 through 1994; and*

3 *“(B) be eligible to receive funds under para-*
4 *graph (2), within the limitations in section*
5 *6(d)(4)(K).”.*

6 *(c) RESEARCH ON OPTIONAL STATE FOOD ASSIST-*
7 *ANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C.*
8 *2026), as amended by section 13055(c)(2), is further*
9 *amended by adding at the end the following:*

10 *“(l) RESEARCH ON OPTIONAL STATE FOOD ASSIST-*
11 *ANCE BLOCK GRANT.—The Secretary may conduct research*
12 *on the effects and costs of a State program carried out*
13 *under section 25.”.*

14 **SEC. 13057. AMERICAN SAMOA.**

15 *The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.),*
16 *as amended by section 13056, is further amended by adding*
17 *at the end the following:*

18 **“SEC. 26. TERRITORY OF AMERICAN SAMOA.**

19 *From amounts made available to carry out this Act,*
20 *the Secretary may pay to the Territory of American Samoa*
21 *not more than \$5,300,000 for each of fiscal years 1996*
22 *through 2002 to finance 100 percent of the expenditures for*
23 *the fiscal year for a nutrition assistance program extended*
24 *under section 601(c) of Public Law 96–597 (48 U.S.C.*
25 *1469d(c)).”.*

1 **SEC. 13058. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.**

2 *The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.),*
3 *as amended by section 13057, is further amended by adding*
4 *at the end the following:*

5 **“SEC. 27. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.**

6 **“(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—**
7 *In this section, the term ‘community food project’ means*
8 *a community-based project that requires a 1-time infusion*
9 *of Federal assistance to become self-sustaining and that is*
10 *designed to—*

11 *“(1) meet the food needs of low-income people;*

12 *“(2) increase the self-reliance of communities in*
13 *providing for their own food needs; and*

14 *“(3) promote comprehensive responses to local*
15 *food, farm, and nutrition issues.*

16 **“(b) AUTHORITY TO PROVIDE ASSISTANCE.—**

17 *“(1) IN GENERAL.—From amounts made avail-*
18 *able to carry out this Act, the Secretary may make*
19 *grants to assist eligible private nonprofit entities to*
20 *establish and carry out community food projects.*

21 *“(2) LIMITATION ON GRANTS.—The total amount*
22 *of funds provided as grants under this section for any*
23 *fiscal year may not exceed \$2,500,000.*

24 **“(c) ELIGIBLE ENTITIES.—To be eligible for a grant**
25 *under subsection (b), a private nonprofit entity must—*

26 *“(1) have experience in the area of—*

1 “(A) *community food work, particularly*
2 *concerning small and medium-sized farms, in-*
3 *cluding the provision of food to people in low-in-*
4 *come communities and the development of new*
5 *markets in low-income communities for agricul-*
6 *tural producers; or*

7 “(B) *job training and business development*
8 *activities for food-related activities in low-in-*
9 *come communities;*

10 “(2) *demonstrate competency to implement a*
11 *project, provide fiscal accountability, collect data, and*
12 *prepare reports and other necessary documentation;*
13 *and*

14 “(3) *demonstrate a willingness to share informa-*
15 *tion with researchers, practitioners, and other inter-*
16 *ested parties.*

17 “(d) *PREFERENCE FOR CERTAIN PROJECTS.—In se-*
18 *lecting community food projects to receive assistance under*
19 *subsection (b), the Secretary shall give a preference to*
20 *projects designed to—*

21 “(1) *develop linkages between 2 or more sectors*
22 *of the food system;*

23 “(2) *support the development of entrepreneurial*
24 *projects;*

1 “(3) *develop innovative linkages between the for-*
2 *profit and nonprofit food sectors; or*

3 “(4) *encourage long-term planning activities and*
4 *multi-system, interagency approaches.*

5 “(e) *MATCHING FUNDS REQUIREMENTS.—*

6 “(1) *REQUIREMENTS.—The Federal share of the*
7 *cost of establishing or carrying out a community food*
8 *project that receives assistance under subsection (b)*
9 *may not exceed 50 percent of the cost of the project*
10 *during the term of the grant.*

11 “(2) *CALCULATION.—In providing for the non-*
12 *Federal share of the cost of carrying out a community*
13 *food project, the entity receiving the grant shall pro-*
14 *vide for the share through a payment in cash or in*
15 *kind, fairly evaluated, including facilities, equipment,*
16 *or services.*

17 “(3) *SOURCES.—An entity may provide for the*
18 *non-Federal share through State government, local*
19 *government, or private sources.*

20 “(f) *TERM OF GRANT.—*

21 “(1) *SINGLE GRANT.—A community food project*
22 *may be supported by only a single grant under sub-*
23 *section (b).*

24 “(2) *TERM.—The term of a grant under sub-*
25 *section (b) may not exceed 3 years.*

1 “(g) *TECHNICAL ASSISTANCE AND RELATED INFORMA-*
2 *TION.—*

3 “(1) *TECHNICAL ASSISTANCE.—In carrying out*
4 *this section, the Secretary may provide technical as-*
5 *sistance regarding community food projects, processes,*
6 *and development to an entity seeking the assistance.*

7 “(2) *SHARING INFORMATION.—*

8 “(A) *IN GENERAL.—The Secretary may*
9 *provide for the sharing of information concern-*
10 *ing community food projects and issues among*
11 *and between government, private for-profit and*
12 *nonprofit groups, and the public through publi-*
13 *cations, conferences, and other appropriate fo-*
14 *runs.*

15 “(B) *OTHER INTERESTED PARTIES.—The*
16 *Secretary may share information concerning*
17 *community food projects with researchers, practi-*
18 *tioners, and other interested parties.*

19 “(h) *EVALUATION.—*

20 “(1) *IN GENERAL.—The Secretary shall provide*
21 *for the evaluation of the success of community food*
22 *projects supported using funds under this section.*

23 “(2) *REPORT.—Not later than January 30,*
24 *2002, the Secretary shall submit a report to Congress*
25 *regarding the results of the evaluation.”.*

1 **CHAPTER 2—COMMODITY DISTRIBUTION**
2 **PROGRAMS**

3 **SEC. 13071. EMERGENCY FOOD ASSISTANCE PROGRAM.**

4 (a) *DEFINITIONS.*—Section 201A of the Emergency
5 *Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C.*
6 *612c note)* is amended to read as follows:

7 **“SEC. 201A. DEFINITIONS.**

8 *“In this Act:*

9 “(1) *ADDITIONAL COMMODITIES.*—The term ‘ad-
10 *ditional commodities’* means commodities made avail-
11 *able under section 214 in addition to the commodities*
12 *made available under sections 202 and 203D.*

13 “(2) *AVERAGE MONTHLY NUMBER OF UNEM-*
14 *PLOYED PERSONS.*—The term ‘average monthly num-
15 *ber of unemployed persons’* means the average month-
16 *ly number of unemployed persons in each State in the*
17 *most recent fiscal year for which information concern-*
18 *ing the number of unemployed persons is available, as*
19 *determined by the Bureau of Labor Statistics of the*
20 *Department of Labor.*

21 “(3) *ELIGIBLE RECIPIENT AGENCY.*—The term
22 *‘eligible recipient agency’* means a public or nonprofit
23 *organization—*

24 *“(A) that administers—*

1 “(i) an emergency feeding organiza-
2 tion;

3 “(ii) a charitable institution (includ-
4 ing a hospital and a retirement home, but
5 excluding a penal institution) to the extent
6 that the institution serves needy persons;

7 “(iii) a summer camp for children, or
8 a child nutrition program providing food
9 service;

10 “(iv) a nutrition project operating
11 under the Older Americans Act of 1965 (42
12 U.S.C. 3001 et seq.), including a project
13 that operates a congregate nutrition site
14 and a project that provides home-delivered
15 meals; or

16 “(v) a disaster relief program;

17 “(B) that has been designated by the appro-
18 priate State agency, or by the Secretary; and

19 “(C) that has been approved by the Sec-
20 retary for participation in the program estab-
21 lished under this Act.

22 “(4) *EMERGENCY FEEDING ORGANIZATION.*—The
23 term ‘emergency feeding organization’ means a public
24 or nonprofit organization that administers activities
25 and projects (including the activities and projects of

1 *a charitable institution, a food bank, a food pantry,*
2 *a hunger relief center, a soup kitchen, or a similar*
3 *public or private nonprofit eligible recipient agency)*
4 *providing nutrition assistance to relieve situations of*
5 *emergency and distress through the provision of food*
6 *to needy persons, including low-income and unem-*
7 *ployed persons.*

8 *“(5) FOOD BANK.—The term ‘food bank’ means*
9 *a public or charitable institution that maintains an*
10 *established operation involving the provision of food*
11 *or edible commodities, or the products of food or edi-*
12 *ble commodities, to food pantries, soup kitchens, hun-*
13 *ger relief centers, or other food or feeding centers that,*
14 *as an integral part of their normal activities, provide*
15 *meals or food to feed needy persons on a regular*
16 *basis.*

17 *“(6) FOOD PANTRY.—The term ‘food pantry’*
18 *means a public or private nonprofit organization that*
19 *distributes food to low-income and unemployed house-*
20 *holds, including food from sources other than the De-*
21 *partment of Agriculture, to relieve situations of emer-*
22 *gency and distress.*

23 *“(7) POVERTY LINE.—The term ‘poverty line’*
24 *has the same meaning given the term in section*

1 673(2) of the Community Services Block Grant Act
2 (42 U.S.C. 9902(2)).

3 “(8) *SOUP KITCHEN.*—The term ‘soup kitchen’
4 means a public or charitable institution that, as inte-
5 gral part of the normal activities of the institution,
6 maintains an established feeding operation to provide
7 food to needy homeless persons on a regular basis.

8 “(9) *TOTAL VALUE OF ADDITIONAL COMMOD-*
9 *ITIES.*—The term ‘total value of additional commod-
10 ities’ means the actual cost of all additional commod-
11 ities made available under section 214 that are paid
12 by the Secretary (including the distribution and proc-
13 essing costs incurred by the Secretary).

14 “(10) *VALUE OF ADDITIONAL COMMODITIES AL-*
15 *LOCATED TO EACH STATE.*—The term ‘value of addi-
16 tional commodities allocated to each State’ means the
17 actual cost of additional commodities made available
18 under section 214 and allocated to each State that are
19 paid by the Secretary (including the distribution and
20 processing costs incurred by the Secretary).”.

21 (b) *STATE PLAN.*—Section 202A of the Act (7 U.S.C.
22 612c note) is amended to read as follows:

23 **“SEC. 202A. STATE PLAN.**

24 “(a) *IN GENERAL.*—To receive commodities under this
25 Act, a State shall submit a plan of operation and adminis-

1 *tration every 4 years to the Secretary for approval. The*
2 *plan may be amended at any time, with the approval of*
3 *the Secretary.*

4 “(b) *REQUIREMENTS.—Each plan shall—*

5 “(1) *designate the State agency responsible for*
6 *distributing the commodities received under this Act;*

7 “(2) *set forth a plan of operation and adminis-*
8 *tration to expeditiously distribute commodities under*
9 *this Act;*

10 “(3) *set forth the standards of eligibility for re-*
11 *cipient agencies; and*

12 “(4) *set forth the standards of eligibility for in-*
13 *dividual or household recipients of commodities,*
14 *which shall require—*

15 “(A) *individuals or households to be com-*
16 *prised of needy persons; and*

17 “(B) *individual or household members to be*
18 *residing in the geographic location served by the*
19 *distributing agency at the time of applying for*
20 *assistance.*

21 “(c) *STATE ADVISORY BOARD.—The Secretary shall*
22 *encourage each State receiving commodities under this Act*
23 *to establish a State advisory board consisting of representa-*
24 *tives of all interested entities, both public and private, in*

1 *the distribution of commodities received under this Act in*
2 *the State.”.*

3 (c) *AUTHORIZATION OF APPROPRIATIONS FOR ADMIN-*
4 *ISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C.*
5 *612c note) is amended—*

6 (1) *in the first sentence—*

7 (A) *by striking “1991 through 1995” and*
8 *inserting “1996 through 2002”; and*

9 (B) *by striking “for State and local” and*
10 *all that follows through “under this title” and*
11 *inserting “to pay for the direct and indirect ad-*
12 *ministrative costs of the State related to the*
13 *processing, transporting, and distributing to eli-*
14 *gible recipient agencies of commodities provided*
15 *by the Secretary under this Act and commodities*
16 *secured from other sources”; and*

17 (2) *by striking the fourth sentence.*

18 (d) *DELIVERY OF COMMODITIES.—Section 214 of the*
19 *Act (7 U.S.C. 612c note) is amended—*

20 (1) *by striking subsections (a) through (e) and*
21 *(j);*

22 (2) *by redesignating subsections (f) through (i)*
23 *as subsections (a) through (d), respectively;*

24 (3) *in subsection (b), as redesignated by para-*
25 *graph (2)—*

1 (A) *in the first sentence, by striking “sub-*
2 *section (f) or subsection (j) if applicable,” and*
3 *inserting “subsection (a)”*; and

4 (B) *in the second sentence, by striking “sub-*
5 *section (f)” and inserting “subsection (a)”*;

6 (4) *by striking subsection (c), as redesignated by*
7 *paragraph (2), and inserting the following:*

8 “(c) *ADMINISTRATION.—*

9 “(1) *IN GENERAL.—Commodities made available*
10 *for each fiscal year under this section shall be deliv-*
11 *ered at reasonable intervals to States based on the*
12 *grants calculated under subsection (a), or reallocated*
13 *under subsection (b), before December 31 of the follow-*
14 *ing fiscal year.*

15 “(2) *ENTITLEMENT.—Each State shall be enti-*
16 *tled to receive the value of additional commodities de-*
17 *termined under subsection (a).*”; and

18 (5) *in subsection (d), as redesignated by para-*
19 *graph (2), by striking “or reduce” and all that follows*
20 *through “each fiscal year”.*

21 (e) *TECHNICAL AMENDMENTS.—The Act (7 U.S.C.*
22 *612c note) is amended—*

23 (1) *in the first sentence of section 203B(a), by*
24 *striking “203 and 203A of this Act” and inserting*
25 *“203A”*;

1 *gency Food Assistance Act of 1983 (Public Law 98–8; 7*
2 *U.S.C. 612c note).*

3 “(b) *BASIS FOR COMMODITY PURCHASES.—In pur-*
4 *chasing commodities under subsection (a), the Secretary*
5 *shall, to the extent practicable and appropriate, make pur-*
6 *chases based on—*

7 “(1) *agricultural market conditions;*

8 “(2) *preferences and needs of States and distrib-*
9 *uting agencies; and*

10 “(3) *preferences of recipients.”.*

11 (h) *EFFECTIVE DATE.—The amendments made by sub-*
12 *section (d) shall become effective on October 1, 1996.*

13 ***Subtitle K—Miscellaneous***

14 ***SEC. 13101. FOOD STAMP ELIGIBILITY***

15 *Section 6(f) of the Food Stamp Act of 1977 (7*
16 *U.S.C. 2015(f)) is amended by striking the third sentence*
17 *and inserting the following: The State agency shall, at its*
18 *option, consider either all income and financial resources*
19 *of the individual rendered ineligible to participate in the*
20 *food stamp program under this subsection, or such income,*
21 *less a pro rata share, and the financial resources of the in-*
22 *eligible individual, to determine the eligibility and the*
23 *value of the allotment of the household of which such indi-*
24 *vidual is a member.’*

1 **SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL**
2 **SERVICES.**

3 *Section 2003(c) of the Social Security Act (42*
4 *U.S.C. 1397b) is amended—*

5 *(1) by striking ‘and’ at the end of paragraph (4);*

6 *and*

7 *(2) by striking paragraph (5) and inserting the*
8 *following:*

9 *‘(5) \$2,800,000,000 for each of the fiscal years*
10 *1990 through 1996; and*

11 *‘(6) \$2,240,000,000 for each fiscal year after fis-*
12 *cal year 1996.’.*

13 **Subtitle L—Reform of the Earned Income Credit**

14 **SEC. 13200. AMENDMENT OF 1986 CODE.**

15 *Except as otherwise expressly provided, whenever*
16 *in this subtitle an amendment or repeal is expressed in*
17 *terms of an amendment to, or repeal of, a section or other*
18 *provision, the reference shall be considered to be made to*
19 *a section or other provision of the Internal Revenue Code*
20 *of 1986.*

21 **SEC. 13201. EARNED INCOME CREDIT DENIED TO INDIVID-**
22 **UALS NOT AUTHORIZED TO BE EMPLOYED IN**
23 **THE UNITED STATES.**

24 *(a) IN GENERAL.—Section 32(c)(1) (relating to in-*
25 *dividuals eligible to claim the earned income credit) is*

1 *amended by adding at the end the following new subpara-*
2 *graph:*

3 “(F) *IDENTIFICATION NUMBER REQUIRE-*
4 *MENT.—The term ‘eligible individual’ does not*
5 *include any individual who does not include on*
6 *the return of tax for the taxable year—*

7 “(i) *such individual’s taxpayer identi-*
8 *fication number, and*

9 “(ii) *if the individual is married*
10 *(within the meaning of section 7703), the*
11 *taxpayer identification number of such in-*
12 *dividual’s spouse.”.*

13 (b) *SPECIAL IDENTIFICATION NUMBER.—Section*
14 *32 is amended by adding at the end the following new sub-*
15 *section:*

16 “(l) *IDENTIFICATION NUMBERS.—Solely for pur-*
17 *poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer*
18 *identification number means a social security number is-*
19 *ssued to an individual by the Social Security Administra-*
20 *tion (other than a social security number issued pursuant*
21 *to clause (II) (or that portion of clause (III) that relates*
22 *to clause (II)) of section 205(c)(2)(B)(i) of the Social Secu-*
23 *rity Act.”.*

24 (c) *EXTENSION OF PROCEDURES APPLICABLE TO*
25 *MATHEMATICAL OR CLERICAL ERRORS.—Section*

1 6213(g)(2) (relating to the definition of mathematical or
2 clerical errors) is amended by striking “and” at the end
3 of subparagraph (D), by striking the period at the end of
4 subparagraph (E) and inserting a comma, and by insert-
5 ing after subparagraph (E) the following new subpara-
6 graphs:

7 “(F) an omission of a correct taxpayer
8 identification number required under section 32
9 (relating to the earned income credit) to be in-
10 cluded on a return, and

11 “(G) an entry on a return claiming the
12 credit under section 32 with respect to net earn-
13 ings from self-employment described in section
14 32(c)(2)(A) to the extent the tax imposed by sec-
15 tion 1401 (relating to self-employment tax) on
16 such net earnings has not been paid.”.

17 (d) *EFFECTIVE DATE.*—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 1995.

20 **SEC. 13202. REPEAL OF EARNED INCOME CREDIT FOR INDI-**
21 **VIDUALS WITHOUT CHILDREN.**

22 (a) *IN GENERAL.*—Subparagraph (A) of section
23 32(c)(1) (defining eligible individual) is amended to read
24 as follows:

1 for the taxable year as exceeds the final
 2 phaseout amount.”

3 (b) *PERCENTAGES AND AMOUNTS.*—

4 (1) *IN GENERAL.*—Subsection (b) of section 32,
 5 as amended by section 13202(b), is amended to read
 6 as follows:

7 “(b) *PERCENTAGES AND AMOUNTS.*—

8 “(1) *PERCENTAGES.*—The credit percentage, the
 9 initial phaseout percentage, and the final phaseout
 10 percentage shall be determined as follows:

<i>“In the case of an eligible individual with:</i>	<i>The credit percentage is:</i>	<i>The initial phaseout percentage is:</i>	<i>The final phaseout percentage is:</i>
<i>1 qualifying child</i>	34	15.98	20
<i>2 or more qualifying children</i>	36	21.06	25

11 “(2) *AMOUNTS.*—The earned income amount, the
 12 initial phaseout amount, and the final phaseout
 13 amount shall be determined as follows:

<i>“In the case of an eligible individual with:</i>	<i>The earned income amount is:</i>	<i>The initial phaseout amount is:</i>	<i>The final phaseout amount is:</i>
<i>1 qualifying child</i>	\$6,340	\$11,630	\$14,850
<i>2 or more qualifying children</i>	\$8,910	\$11,630	\$17,750”.

14 (2) *INCREASE IN CREDIT FOR LOWER-INCOME*
 15 *FAMILIES HAVING 2 MORE QUALIFYING CHILDREN.*—
 16 Subsection (d) of section 32 is amended to read as fol-
 17 lows:

18 “(d) *INCREASE IN CREDIT FOR LOWER-INCOME*
 19 *FAMILIES HAVING 2 OR MORE QUALIFYING CHILDREN.*—

1 “(1) *IN GENERAL.*—If an eligible individual has
2 or more qualifying children, for purposes of apply-
3 ing paragraphs (1) and (2)(A) of subsection (a)—

4 “(A) the amount of the taxpayer’s earned
5 income shall be treated as being equal to $\frac{10}{9}$ of
6 such income (determined without regard to this
7 paragraph), and

8 “(B) the earned income amount shall be
9 treated as being equal to $\frac{10}{9}$ of such amount (de-
10 termined without regard to this paragraph).

11 “(2) *PHASEOUT OF BENEFIT.*—If the applicable
12 income of the taxpayer for the taxable year exceeds
13 \$14,000 (\$17,000 in the case of a joint return), the
14 amount of each increase under paragraph (1) shall be
15 reduced (but not below zero) by an amount which
16 bears the same ratio to such increase (determined
17 without regard to this subparagraph) as such excess
18 bears to \$4,000.

19 “(3) *APPLICABLE INCOME.*—For purposes of this
20 subsection, the term ‘applicable income’ means ad-
21 justed gross income or, if greater, earned income.”

22 (3) *CONFORMING AMENDMENTS.*—

23 (A) Subsection (j) of section 32 is amend-
24 ed—

1 (i) by striking “subsection (b)(2)(A)”
2 and inserting “subsection (b)(2) or (d)”,
3 (ii) by striking “1994” and inserting
4 “1996”, and
5 (iii) by striking “1993” and inserting
6 “1995”.

7 (B) Subsection (e) of section 32 is amended
8 to read as follows:

9 “(e) *OTHER SPECIAL RULES*—

10 “(1) *MARRIED INDIVIDUALS*.—In the case of an
11 individual who is married (within the meaning of
12 section 7703), this section shall apply only if a joint
13 return is filed for the taxable year.

14 “(2) *TAXABLE YEAR MUST BE FULL TAXABLE*
15 *YEAR*.—Except in the case of a taxable year closed by
16 reason of the death of an individual, no credit shall
17 be allowable under this section in the case of a taxable
18 year covering a period of less than 12 months.”

19 (c) *EFFECTIVE DATE*.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1995.

1 **SEC. 13204. RULES RELATING TO DENIAL OF EARNED IN-**
2 **COME CREDIT ON BASIS OF DISQUALIFIED IN-**
3 **COME.**

4 (a) *DEFINITION OF DISQUALIFIED INCOME.*—Para-
5 graph (2) of section 32(i) (defining disqualified income) is
6 amended by striking “and” at the end of subparagraph
7 (B), by striking the period at the end of subparagraph (C)
8 and inserting “, and”, and by adding at the end the fol-
9 lowing new subparagraph:

10 “(D) the excess (if any) of—

11 “(i) the aggregate income from all pas-
12 sive activities for the taxable year (deter-
13 mined without regard to any amount de-
14 scribed in a preceding subparagraph), over

15 “(ii) the aggregate losses from all pas-
16 sive activities for the taxable year (as so de-
17 termined).

18 For purposes of subparagraph (D), the term
19 ‘passive activity’ has the meaning given such
20 term by section 469.”.

21 (b) *EFFECTIVE DATE.*—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 1995.

1 **SEC. 13205. MODIFICATION OF ADJUSTED GROSS INCOME**

2 **DEFINITION FOR EARNED INCOME CREDIT.**

3 (a) *IN GENERAL.*—Subsections (a)(2), (c)(1)(C),
4 (d), and (f)(2)(B) of section 32, as amended by the preced-
5 ing sections of this subtitle, are each amended by striking
6 “adjusted gross income” each place it appears and insert-
7 ing “modified adjusted gross income”.

8 (b) *MODIFIED ADJUSTED GROSS INCOME DE-*
9 *FINED.*—Section 32(c) (relating to definitions and special
10 rules) is amended by adding at the end the following new
11 paragraph:

12 “(5) *MODIFIED ADJUSTED GROSS INCOME.*—

13 “(A) *IN GENERAL.*—The term ‘modified ad-
14 justed gross income’ means adjusted gross in-
15 come—

16 “(i) increased by the sum of the
17 amounts described in subparagraph (B),
18 and

19 “(ii) determined without regard to—

20 “(I) the amounts described in sub-
21 paragraph (C), or

22 “(II) the deduction allowed under
23 section 172.

24 “(B) *NONTAXABLE INCOME TAKEN INTO AC-*
25 *COUNT.*—Amounts described in this subpara-
26 graph are—

1 “(i) social security benefits (as defined
2 in section 86(d)) received by the taxpayer
3 during the taxable year to the extent not in-
4 cluded in gross income,

5 “(ii) amounts which—

6 “(I) are received during the tax-
7 able year by (or on behalf of) a spouse
8 pursuant to a divorce or separation in-
9 strument (as defined in section
10 71(b)(2)), and

11 “(II) under the terms of the in-
12 strument are fixed as payable for the
13 support of the children of the payor
14 spouse (as determined under section
15 71(c)),

16 but only to the extent such amounts exceed
17 \$6,000,

18 “(iii) interest received or accrued dur-
19 ing the taxable year which is exempt from
20 tax imposed by this chapter, and

21 “(iv) amounts received as a pension or
22 annuity, and any distributions or payments
23 received from an individual retirement
24 plan, by the taxpayer during the taxable

1 year to the extent not included in gross in-
2 come.

3 Clause (iv) shall not include any amount which
4 is not includible in gross income by reason of
5 section 402(c), 403(a)(4), 403(b)(8), 408(d) (3),
6 (4), or (5), or 457(e)(10).

7 “(C) CERTAIN AMOUNTS DISREGARDED.—
8 an amount is described in this subparagraph if
9 it is—

10 “(i) the amount of losses from sales or
11 exchanges of capital assets in excess of gains
12 from such sales or exchanges to the extent
13 such amount does not exceed the amount
14 under section 1211(b)(1),

15 “(ii) the net loss from the carrying on
16 of trades or businesses, computed separately
17 with respect to—

18 “(I) trades or businesses (other
19 than farming) conducted as sole pro-
20 prietorships,

21 “(II) trades or businesses of farm-
22 ing conducted as sole proprietorships,
23 and

24 “(III) other trades or business,

1 “(iii) the net loss from estates and
2 trusts, and

3 “(iv) the excess (if any) of
4 amounts described in subsection
5 (i)(2)(C)(ii) over the amounts described
6 in subsection (i)(2)(C)(i) (relating to
7 nonbusiness rents and royalties).

8 For purposes of clause (ii), there shall not be
9 taken into account items which are attributable
10 to a trade or business which consists of the per-
11 formance of services by the taxpayer as an em-
12 ployee.”.

13 (c) *EFFECTIVE DATE.*—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1995.

16 **SEC. 13206. PROVISIONS TO IMPROVE TAX COMPLIANCE.**

17 (a) *INCREASE IN PENALTIES FOR RETURN PRE-*
18 *PARERS.*—

19 (1) *UNDERSTATEMENT PENALTY.*—Section 6694
20 (relating to understatement of income tax liability by
21 income tax return preparer) is amended—

22 (A) by striking “\$250” in subsection (a)
23 and inserting “\$500”, and

24 (B) by striking “\$1,000” in subsection (b)
25 and inserting “\$2,000”.

1 (2) *OTHER ASSESSABLE PENALTIES.*—Section
2 6695 (relating to other assessable penalties) is amend-
3 ed—

4 (A) by striking “\$50” and “\$25,000” in
5 subsections (a), (b), (c), (d), and (e) and insert-
6 ing “\$100” and “\$50,000”, respectively, and

7 (B) by striking “\$500” in subsection (f)
8 and inserting “\$1,000”.

9 (b) *AIDING AND ABETTING PENALTY.*—Section
10 6701(b) (relating to amount of penalty) is amended—

11 (1) by striking “\$1,000” in paragraph (1) and
12 inserting “\$2,000”, and

13 (2) by striking “10,000” in paragraph (2) and
14 inserting “20,000”.

15 (c) *EFFECTIVE DATE.*—The amendments made by
16 this section shall apply to penalties with respect to taxable
17 years beginning after December 31, 1995.

Attest:

Secretary.

104TH CONGRESS
1ST SESSION

H. R. 2491

AMENDMENT

HR 2491 EAS—2
HR 2491 EAS—3
HR 2491 EAS—4
HR 2491 EAS—5
HR 2491 EAS—6
HR 2491 EAS—7
HR 2491 EAS—8
HR 2491 EAS—9
HR 2491 EAS—10
HR 2491 EAS—11
HR 2491 EAS—12
HR 2491 EAS—13
HR 2491 EAS—14
HR 2491 EAS—15

HR 2491 EAS	16
HR 2491 EAS	17
HR 2491 EAS	18
HR 2491 EAS	19
HR 2491 EAS	20
HR 2491 EAS	21
HR 2491 EAS	22
HR 2491 EAS	23
HR 2491 EAS	24
HR 2491 EAS	25
HR 2491 EAS	26
HR 2491 EAS	27
HR 2491 EAS	28
HR 2491 EAS	29

HR 2491 EAS	30
HR 2491 EAS	31
HR 2491 EAS	32
HR 2491 EAS	33
HR 2491 EAS	34
HR 2491 EAS	35
HR 2491 EAS	36
HR 2491 EAS	37
HR 2491 EAS	38
HR 2491 EAS	39
HR 2491 EAS	40
HR 2491 EAS	41
HR 2491 EAS	42
HR 2491 EAS	43

HR 2491 EAS	44
HR 2491 EAS	45
HR 2491 EAS	46
HR 2491 EAS	47
HR 2491 EAS	48
HR 2491 EAS	49
HR 2491 EAS	50
HR 2491 EAS	51
HR 2491 EAS	52
HR 2491 EAS	53
HR 2491 EAS	54
HR 2491 EAS	55
HR 2491 EAS	56
HR 2491 EAS	57

HR 2491 EAS	58
HR 2491 EAS	59
HR 2491 EAS	60
HR 2491 EAS	61
HR 2491 EAS	62
HR 2491 EAS	63
HR 2491 EAS	64
HR 2491 EAS	65
HR 2491 EAS	66
HR 2491 EAS	67
HR 2491 EAS	68
HR 2491 EAS	69
HR 2491 EAS	70
HR 2491 EAS	71

HR 2491 EAS—72
HR 2491 EAS—73
HR 2491 EAS—74
HR 2491 EAS—75
HR 2491 EAS—76
HR 2491 EAS—77
HR 2491 EAS—78
HR 2491 EAS—79
HR 2491 EAS—80
HR 2491 EAS—81
HR 2491 EAS—82
HR 2491 EAS—83
HR 2491 EAS—84
HR 2491 EAS—85

HR 2491 EAS	86
HR 2491 EAS	87
HR 2491 EAS	88
HR 2491 EAS	89
HR 2491 EAS	90
HR 2491 EAS	91
HR 2491 EAS	92
HR 2491 EAS	93
HR 2491 EAS	94
HR 2491 EAS	95
HR 2491 EAS	96
HR 2491 EAS	97
HR 2491 EAS	98
HR 2491 EAS	99

HR 2491 EAS	100
HR 2491 EAS	101
HR 2491 EAS	102
HR 2491 EAS	103
HR 2491 EAS	104
HR 2491 EAS	105
HR 2491 EAS	106
HR 2491 EAS	107
HR 2491 EAS	108
HR 2491 EAS	109
HR 2491 EAS	110
HR 2491 EAS	111
HR 2491 EAS	112
HR 2491 EAS	113

HR 2491 EAS—114
HR 2491 EAS—115
HR 2491 EAS—116
HR 2491 EAS—117
HR 2491 EAS—118
HR 2491 EAS—119
HR 2491 EAS—120
HR 2491 EAS—121
HR 2491 EAS—122
HR 2491 EAS—123
HR 2491 EAS—124
HR 2491 EAS—125
HR 2491 EAS—126
HR 2491 EAS—127

HR 2491 EAS—128

HR 2491 EAS—129

HR 2491 EAS—130